THE

CIVIL SERVICE LAW:

A

DEFENSE OF ITS PRINCIPLES, WITH CORROBORATIVE EVIDENCE

FROM THE WORKS OF MANY EMINENT

AMERICAN STATESMEN.

BY

WILLIAM HARRISON CLARKE.

SECOND EDITION—REVISED.

Offices are public trusts, not private spoils.—*Daniel Webster.*

No people have a higher public interest, except the preservation of their liberties, than integrity in the administration of their government in all its branches.—*U. S. Supreme Court.*

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PREFACE.

THE improvements in the revised edition of this work consist in an Appendix, a new Index, the addition of fresh matter to about thirty pages of the Introduction and various chapters, and the correction of a few errors. The Appendix possesses much historical value, for it contains pertinent quotations from the works of many contemporary and recent statesmen not quoted in the body of the book.

The warning of Storey and Washington (pages 225, 226) concerning the dangers of party spirit, should be read and heeded by every American. Parties, when they strive solely for principle, are the life of a nation; but when they strive solely for pelf, patronage, and power, they are its death. Even corrupt party leaders may destroy a republic; sometimes even ambitious leaders may do so. Did a nation ever make a narrower escape than did our own during the slaveholders' rebellion? Who but ambitious party leaders caused that rebellion?

Some truthful words concerning the crime of buying and selling votes have been added to page 52. This evil cannot be too soon remedied. Voters should be educated up to a higher standard. The American who acknowledges any man as his political "boss," at the polls or elsewhere, disgraces the name American. Independent voting and an educational test for voters are what is wanted. The man who cannot both read and write the English language, should not be allowed to vote. This would supersede the necessity for the so-called Force Bill, for the rule would apply to blacks as well as whites. A few words concerning the crime of business men neglecting to vote would be an important supplement to page 52.

The subject of civil service reform is still one of the greatest issues of the day. The *Christian Register* (Boston) truly says: "We are yet on the threshold of this *the most important reformation in American political history.*" Other newspapers have testified to the same effect, extracts from a few of which appear on page 240.

There is much work yet to be done. But the outlook is hopeful. If civil service reformers are as vigilant in the future as they have been in the past, ultimate victory is assured. A people who have the intelligence to discover their mistakes and the courage to correct them, are capable of self-government; otherwise they are not.

Some allowance should be made for the harsh words concerning Mr. Van Buren (pages 76–79), as they were uttered in the heat of debate.

NEW YORK, May, 1891.

PREFACE TO FIRST EDITION.

THE chief object of this work is to defend the principles of the Civil Service Law. It is not a criticism of the law, nor does it treat to any great extent of civil service economy as such, except in so far as the subject is expounded incidentally, but with ability and in the aggregate with great success, by many American statesmen, extracts from whose works embellish and enrich its pages. These extracts in fact constitute a great part of the civil service history and literature of the country, particularly its early history and literature, and therefore constitute much of the value of this volume. This is well, and is besides opportune, for the subject of civil service reform is one of the greatest issues of the day, and too much light cannot be shed upon it. A work that even aids in elucidating such an important subject ought to be acceptable; indeed it appears to be one of the needs of the times. The fact that one chapter of the work is mostly devoted to corruption at elections and remedial election laws, only adds to its value, for the subject is not only collateral but of great importance, of as great importance perhaps as civil service reform itself. Whatever may be said of the original parts of the volume, the compiled parts are certainly both useful and instructive reading, and ought to aid in elevating and purifying American politics.

The importance of a sound civil service policy was never better illustrated perhaps than by the *New York Times*, when criticising, in 1864, Senator Sumner's civil service bill. It said the subject was second in importance only to the crushing of the then rebellion. The *Times* was then under the editorial direction of Mr. Henry J. Raymond, a statesman and one of the best known editors of his day.

I am indebted to Mr. George William Curtis, the President of the National Civil Service Reform League, for valuable suggestions and encouragement to persevere in my researches, and also to the Astor Library for the use of many books. Other obligations are acknowledged here and there throughout the volume.

This work, it should be understood, refers to the *national* civil service law. The civil service laws of New York and Massachusetts are patterned after the national law, but of course contain provisions peculiar to themselves.

W. H. C.

NEW YORK, July, 1888.

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INTRODUCTION.

THE CIVIL SERVICE LAW was passed January 16, 1883. The bill was drawn by Dorman B. Eaton of New York, as Chairman of the Committee on Legislation of the New York Civil Service Reform Association.* The law was preceded by two other laws, namely, Sections 164 and 1753 of the United States Revised Statutes (printed on page 23). Sec. 164 was passed March 3, 1853; Sec. 1753 March 3, 1871. The latter was originated by Senator Lyman Trumbull of Illinois.

The civil service law bill was preceded by three other bills, all of which failed to pass Congress. The first was introduced, in 1864, by Senator Charles Sumner of Massachusetts, whose only recorded words are (Cong. Globe, 1864, p. 1985): "The object of the bill is to provide a competitive system of examination in the civil service of the United States." The bill, a good foundation only on which to build, may be found in Sumner's Works, vol. viii, p. 452. The bill, owing perhaps to the pressure of other business, never came up for discussion by the Senate. The second bill, which was wider in its scope than Mr. Sumner's, was introduced, in 1865, by Representative Thomas Allen Jenckes of Rhode Island, and again, with improvements, in 1866. Mr. Jenckes advocated his bill ably, argumentatively,

* For an account of Senator Pendleton's connection with the bill, see pages 216, 217.

and earnestly during several sessions of Congress.* The third bill was introduced, in 1869, by Senator Schurz of Missouri. It gave the President the option of selecting from among the men who passed the Board, or of ordering men of his own selection before it, and required five and eight year terms of office. The object of the five-year term was to prevent such appointments from being made during the year of the inauguration of the President. The idea was, as explained by Mr. Schurz, that appointments, as a rule, should not be made until the administration was well settled down to business. Senator Schurz's bill required a year of probationary service, Representative Jenckes's six months. Both required competitive examinations. Other civil service bills have been introduced at different times by Senators Henry L. Dawes of Massachusetts, George F. Edmunds of Vermont, and B. Gratz Brown of Missouri, and Representatives John A. Kasson of Iowa, Albert S. Willis of Kentucky, and Thomas M. Bayne of Pennsylvania.

It is noteworthy in this connection that Representative Samuel Brenton of Indiana, on August 11, 1852, offered an amendment to a resolution proposing to increase the pay of civil service clerks in Washington, the concluding part of which is as follows (Congressional Globe, vol. xxiv, pt. 3, p. 2189): "No removals shall be made except for incompetency, or cause shown to the satisfaction of the President of the United States. And in the selection of said clerks, they shall, as far as

* The New York *Independent*, in criticising the first edition of this work, says: "The only correction we have to suggest to the historical part of the book is that Thomas A. Jenckes deserves more credit for the first steps to which he forced a reluctant Congress than is accorded to him." The criticism is well taken. Mr. Jenckes's works are his best monument, however. Words are empty things in comparison.

practicable, be taken from the several States and Territories in proportion to the number of Senators, Representatives, and Delegates from each in the Thirty-third Congress."

This is practically the same, so far as it goes, as the civil service law. Mr. Brenton said his object was to secure permanency, to prevent sectionalism in the selection of clerks, and to "break down party spirit as much as possible."

The provisions of the civil service law concerning examinations are: It provides that in any State or Territory "where there are persons to be examined," at least two examinations shall be held each year, and in such places "as to make it reasonably convenient and inexpensive for applicants to attend before them." It provides that the examiners, "not less than three," shall be chosen from among United States officials* "residing in said State or Territory." It requires the Commissioners to make regulations for examinations and annual reports of their proceedings, with such suggestions as in their judgment will result in improving the service; and it authorizes them to make investigations concerning all matters "in respect to the execution of this act." It requires that selections for office shall be from among the three competitors graded highest in the examinations. It forbids favoritism in examinations, and exempts officeholders from either political assessments or services, and makes a violation of either

* This is required not only in the interest of economy but to secure examiners who are familiar with the real needs of the offices for which applicants are examined. The examiners receive no extra compensation. (Third An. Rept., p. 43.) Yet many persons favor the employment of *paid examiners*—experts in their respective lines. Common-sense examiners are what are needed, whether paid or not paid—men who will not injure the cause by asking irrelevant questions. A few do so.

provision a misdemeanor, punishable by fine or imprisonment or both, and the new rules (adopted February 2, 1888) require that a violation of the latter provision shall be followed by dismission from the service. It exempts from examination—(*a*) One private secretary, or one confidential clerk, of the head of each classified department, and of each assistant secretary thereof; and also of each head of bureau appointed by the President by and with the advice and consent of the Senate. (*b*) Direct custodians of money, for whose fidelity another officer is under official bond; but this exception shall not include any officer below the grade of assistant cashier or assistant teller. (*c*) Disbursing officers who give bonds. (*d*) Persons employed exclusively in the secret service of the government. (*e*) Chief clerks. (*f*) Chiefs of divisions." Other exceptions are: Deputy collectors who do not also act as inspectors, examiners, or clerks; otherwise not; cashier, assistant cashier, and auditor of the collector; chief acting disbursing officer; deputy naval officers; deputy surveyors; assistant postmasters, and superintendents, custodians of money, stamps, stamped envelopes, or postal-cards, who are designated as such by the Postoffice Department. It provides for non-competitive examinations when competent persons do not compete, and for several other cogent and justifiable reasons. As said on page 27, competitors must answer 70 per cent. of the questions asked, except ex-soldiers and sailors, who are required to answer but 65, the old standard. Competitive examinations for promotion are compulsory, except for ex-soldiers and sailors, and the widows and orphans of deceased soldiers and sailors. These also receive preference in case of a reduction of force in any branch of the classified service. All who attain an average of 75 per cent. are eligible to promotion. The education

required in examinations for ordinary offices embraces common-school studies only, and in many cases only a few of these. As to the age at which a person may be examined, in the Customs Department clerks and messengers must be 20 years old; all others 21. In the Postal Department clerks must be 18 years old; messengers, stampers, and junior clerks must not be under 16 or over 45; carriers not under 21 or over 40; all others not under 18 or over 45. Soldiers and sailors may be examined on the written consent of the Secretary of War or the Secretary of the Navy. *

Other important provisions of the law are: It declares that its officials shall not "coerce the political action of any person or body, or interfere with any election," and dismission is the penalty of a violation of the provision. It forbids any questions as to an applicant's political or religious opinions, and when such opinions are known, any discrimination on account of them. Further, it requires its officials to discountenance the disclosure of such opinions. And again dismission is the penalty. It forbids the appointment to office of persons who habitually use intoxicating liquors to excess. It limits the number of members of the same family who may hold office in the grades covered by it. It forbids its three Commissioners, "not more than two of whom shall be adherents of the same party," from holding any other office under the United States. It authorizes the President to remove any Commissioner. An appointing officer may, if he deems it for the good of the service, object in writing to making an appointment, and refer the matter to the Commission for investigation. No eligible person can be cer-

* For further information about competitive examinations, and also some facts about trial by probation, as well as a few other facts pertinent to the above summary, see Chapter II (page 26).

tified for appointment more than three times. When necessary, transfers may be made from one department to another. There are four branches of the classified civil service, namely, the departmental, the customs, the postal, and the railway mail service. (For the civil service statute itself, see page 228.)

Such is a summary of the chief features of the law and its rules and regulations. The whole is certainly a good foundation on which to build a sound civil service system. This is proved by experience, for the system is working as satisfactorily as could be expected under the circumstances. The law should be increased in scope till all postmasters, employés of the internal revenue service, mints, &c., come within its provisions, with the necessary exceptions of course. Postmasters should be removed only for good cause known to the Postmaster-General or President, or at the request of a majority of the business men of their place of office.* Further, where it is practicable to hold promotion examinations, vacant postmasterships as well as subordi-

* Complaints on account of partisan postmasters are not new. As early as 1848 Postmaster-General Cave Johnson said (Appendix to Cong. Globe, Dec. 2, 1848, p. 30): "There has been for some years past a strong feeling pervading the country that the system (the Postoffice Department) had been conducted * * * with the view of promoting party purposes and party organization, rather than the business and social interests it was created to advance—that the offices were bestowed as the reward of partisan services, rather than from the merit and qualifications of those selected. * * * The postoffice system was designed for business purposes, * * * and should be in nowise connected with the party politics of the day." As a remedy, Mr. Johnson proposed that "the Postmaster-General be nominated by the President to the Senate for a specific term of years; be separated from the Cabinet, and only removable by impeachment; and the appointment of the principal subordinate officers, for a like term of years, be given to him; and to provide that no removal should be made except for good and sufficient cause, to be reported to each session of the Senate."

nate positions should be filled by the person standing the best test. The selection of postmasters under the civil service law system would of course require special rules and regulations, just as the other departments do. The politics of a postmaster is about as important to a citizen as the politics of the fireman who extinguishes a fire in his house. There are now about 3,000 postmasters drawing $1,000 or over a year, who have for this reason to be confirmed by the Senate. In twenty years more the number will probably be 5,000. It is impossible for the Senate to confirm this great number properly and attend to other business at the same time. This is one of many good reasons why postmasterships should be brought under civil service law rules.

The law seems to be working satisfactorily. Chief Examiner Wm. H. Webster of the national service, who has held office in Washington for 22 years, and, like the late Mr. Windom, is "able to judge by comparison of the two systems" (see page 213) writing (Dec. 1, 1890) in answer to questions propounded by myself, says:

"With few exceptions, the applicants are of good character, and I believe the morale of the employés has already been much improved by the merit system. In a vast majority of cases the intelligence of the appointees under this system is of a higher order than that of those appointed under the old system. However, it may be well to state in this connection that the intelligence of the applicants varies considerably according to the different sections of the Union from which they come. The small percentage of appointees "dropped at the end of the probationary period" proves that the appointees possess practical ability. Great injustice is sometimes done civil service appointees and the merit system itself by comparing the service rendered by these newly-made clerks with that of men appointed under the old system—men who have had the benefit of an extended experience in the public service, and many of whom have gradually become efficient clerks by lapse of time and at the expense of the government. The proportion of the qualified applicants who were appointed for the year ended June 30, 1890, was: Departmental

service, about 25 per cent.; customs service, nearly 20 per cent.; postal and railway mail services, about 45. These percentages are general averages of all the kinds of examination given in each branch of the service. The proportion of appointments varies of course for the different examinations in any branch of the service. In the departmental service, for instance, a much larger proportion of those who pass technical examinations—stenography, type-writing, specials for the Patent and Pension offices, &c.—are appointed than of those who pass clerk or copyist examinations. In this connection it may be proper to state that the number of applicants has not been increased by the application of the civil service rules, charges by certain spoilsmen to the contrary notwithstanding. Applicants for positions not included under the rules, especially for consulships, are much more numerous than for those under the rules. I have no personal knowledge that the examinations have aided any one in securing private work; but it seems reasonable that they should do so. But I do know that complaints are made that the government is competing too strongly with private industries. The Commission has been informed by certain business men that one government department has been taking the most valuable employés in their establishments, and that they found it impossible to retain an efficient force in consequence. I do not think that failure to obtain public employment is more discouraging or demoralizing than failure to obtain private employment. Non-competitive examinations amount to nothing so far as the great object of the civil service law is concerned."

Chief Examiner Henry Sherwin of the Massachusetts Civil Service Commission says (Nov. 18, 1890):

"The general intelligence of our applicants is as good as that of persons seeking private employment in similar positions. This is especially true of our police and fire departments. The latter also excel in physique, proportion, strength, and agility. Of course there is a difference in applicants, as there is in school children. About a third of those examined fail to get the required 65 per cent. A great majority of those who pass examinations show practical ability, interest in their work, sobriety, and good deportment in every way. The dismissals for cause are fewer in proportion than under the old rules. A few persons have received private employment in consequence of having passed examinations. I think there would be more if it were generally known that the Commission is willing to oblige the public in this way. Some eligibles have had their names stricken

from the list because their employers, rather than lose their services, have increased their pay. I do not see how failure to obtain public employment can possibly be so discouraging or demoralizing as failure to obtain private employment. It may be a little disheartening to a person who is certified, and not chosen; but it certainly cannot be so demoralizing as seeking private employment now, when the person who does so finds nearly every place for which he thinks he is fitted occupied, and does not always receive a courteous answer from the person to whom he applies. A majority of those who qualify in examinations know that their chances of appointment are small, as others have higher ratings. But they have the proud satisfaction of knowing that they have passed absolute tests, and that this fact is a recommendation to them. I think competitive examinations are far superior to non-competitive, and my instructions from the Commission are to hold them whenever it can be done, the wishes of some appointing officers to the contrary notwithstanding. But the latter are often held because the offices are so poorly paid that men will not compete for them. Two suggestions occur to me. 1. No person who deserves dishonorable dismissal should be allowed to resign, whether charges have been preferred against him or not. When dismissed, he should be placed in such a position that he cannot appear again as an applicant, and thus plague a civil service commission. 2. Every discharge from the classified service should be accompanied by a written statement, signed by the person making it, stating explicitly the cause of the same, a copy of which should be filed with the Civil Service Commission."

Mr. Lee Phillips, Secretary and Executive Officer of the New York City Civil Service Board, says (Dec. 1, 1890):

"The character and general intelligence of the applicants is very fair indeed. So far as I know, the appointees, with rare exceptions, show practical ability. I attribute this to the fact that our examinations are very practical. About 40 per cent. of the qualified applicants receive appointment. I know of several instances where persons have obtained private employment through having their names upon our eligible lists. It is not uncommon for private individuals to write to me requesting the names of such persons. Failure to obtain public employment is not, in my opinion, any more discouraging or demoralizing than failure to obtain private employment. Experience leads me to prefer competitive to non-competitive examinations."

Mr. Wm. Potts, ex-Chief Examiner of New York, reports, among other things, that a civil engineer of a leading railroad company requested a copy of a list of 16 civil engineers who had passed an examination, with a view of filling a position on the staff of that road.

In the national service the number of persons examined in 1883 was 3,542; in 1884, 6,347; 1885, 7,602; from January 16, 1886, to June 30, 1887, 15,852; July 1, 1887, to June 30, 1888, 11,281; July 1, 1888, to June 30, 1889, 19,060; July 1, 1889, to June 30, 1890, 22,994—total, 86,678. Of the 13,947 who passed in 1889–1890, the education was: common school, 11,594; college, 1,479; business college, 874. 38,608 women have passed examinations since January 16, 1886. 20,060 appointments were made prior to June 30, 1890.

	1884	1885	1886	1887	1888	1889	1890	Total.
New Y. State.								
Examined - - -	*683	4,822	4,007	5,517	4,832	4,719	4,896	29,476
Passed - - - - -	612	3,629	3,158	3,974	3,032	3,761	3,455	21,621
Appointed - - -	435	2,725	2,035	2,693	2,674	2,162	2,322	14,992
New Y. City.								
Examined - - -	200	2,409	1,927	2,490	2,397	3,139	2,110	†14,672
Passed - - - - -	158	2,143	1,653	1,949	1,791	2,545	1,661	11,910
Appointed - - -	98	1,148	1,216	1,411	1,524	1,278	912	7,587
Massachusetts.								
Examined - - -	—	1,292	1,035	1,433	1,505	1,483	1,572	8,320
Passed - - - - -	—	958	791	938	1,014	1,016	1,044	5,761
Appointed - - -	—	188	355	403	523	471	451	2,391

In New York 156* appointees were war veterans; average age about 31;* education about 90 per cent. common school. In Massachusetts 226 appointees were veterans (appointed without examination), and about 4 per cent. were women; education about 98 per cent. common school; average age about 34. The 8,320 examinations are exclusive of the Boston and Cambridge labor services, about 1,500 men, who are registered and, after inquiry as to character, &c., certified for employment. One of the best features of this 'labor service' is that the men, when wanted, are notified by mail. No time is lost. The system, which now includes mechanics as well as laborers, should be applied to all large cities. It seems to be about perfect.

Mayor Hugh O'Brien of Boston says (speech in 1885): "I can certainly testify that it has been a great relief to the city of Boston that the Civil Service Commission has taken care of the laboring population. No men have been more abused than the laborers. They have been made the tools of political tricksters; and with civil service reform enforced they are no longer in the hands of political tricksters."

* Exclusive of cities. † Only 1,848 of which were non-competitive.

THE CIVIL SERVICE LAW.

CHAPTER I.

FRUITS AND FACTS.

The law promotes Education, Efficiency, Economy.—Its chief Object.—Its Constitutionality.—In harmony with the Teachings of Madison, Hamilton, and Jay.—Aids instead of Hampers the President.

THE CIVIL SERVICE LAW, judged by its fruits, is a useful and successful reformatory measure. Its fruits or reforms are necessarily limited in number, for it applies to only about a fifth of the subordinate and non-political public offices. But notwithstanding this fact, it has made a good beginning in reforming the patronage system of distributing offices, and it promises well for the future. One of its best reforms is the relief of officeholders from compulsory political assessments. Another is the making of subordinate official tenures coequal with efficiency and fidelity, instead of their depending on the politics of chief officials. It has also greatly relieved the President, the Cabinet,* Congressmen, and customs, postoffice, and other officials of the annoying and sometimes embarrassing burdens of office-seeking. The National Civil Service Commission, and also the State Commissions of New York and Massachusetts, have received encouraging reports of the utility of the system from nearly every city wherein it has been fairly tried. The New York Commissioners say

* See Secretary Windom's testimony, pages 213, 214.

(Second Report, p. 34): "Higher grade employés, better service, reduction in the number employed, and large economy in expenditure are among the prominent results already partially realized."

The law is certainly in harmony with the spirit of the times, for it both promotes and encourages education.* Mr. Everett P. Wheeler truly says: "So far from its being opposed to the genius of our institutions, it is inspired by that genius." Another good feature of the law is that it is, like all laws should be, nonpartisan in its character, having been originated by the best known men of both the Democratic and Republican parties. It makes no distinction on account of sex. The provision which requires that examinations for and appointments to office shall be controlled by separate sets of officials, these by a third set (the Civil Service Commissioners), and the Commissioners by the President, is certainly a wise one, for, like the government's legislative, executive, and judicial officials, one set checks as well as aids the other. For example, appointing officers are required to keep records of removals,

* Mr. Henry Sherwin, chief examiner of the Massachusetts Civil Service Commission, says (Third Annual Report, p. 11): "It may be said truthfully that, in their way, civil service examinations form a part of a general educational system. The demands made upon applicants vary in accordance with the positions for which they are examined. A first examination has shown many of them their various deficiencies, and they have been stimulated to bring their education up to the required standard. In many cases this has been done with the help of friends, but more frequently by attendance at the evening schools which are maintained in many of the cities of the Commonwealth."

Many other Americans have made similar testimonials to the above, and Sir Charles Trevelyan and many other Englishmen have testified that the English civil service law has the same effect in England, Canada, Australia, British India, &c. To print even a synopsis of so many similar testimonials is certainly superfluous.

rejections, resignations, transfers, and the name and residence of persons selected for trial by probation. This enables the Commissioners to check either unjust removals or rejections after trial by probation.

The chief object of the law is the application of the common-sense principles of private business to public business. Public and private business may differ more or less in detail, and even in mode of performance, yet their fundamental principles are the same.* For example, the violation of certain rules will be followed by more or less injury, while the violation of certain others will be followed sooner or later by insolvency. One of these principles or rules is the retention in employment of efficient and honest men. Another is the removal of either inefficient or dishonest men. The foregoing being universally admitted facts, it is therefore self-evident that, the services rendered being satisfactory, and the exigencies of business permitting, the tenure of service of subordinate public employés, like that of private employés, should be during efficient and faithful service, which service should be rewarded, when practicable, by promotion and a reasonable increase of pay. In private business the removal of efficient and faithful employés to make room for untried men, who might prove to be

* The oft-repeated maxim that the public service should be conducted on business principles, means that accuracy, promptitude, honesty, economy, and efficiency are as essential in public as in private affairs; but the methods of securing these qualities cannot be exactly the same. The merchant has a direct personal and pecuniary interest in his private affairs which leads him to make a careful selection of his employés; but in the public service there must be substituted some more complicated agency in the form of laws, regulations, reports, and inspections. —Col. Silas W. Burt.

The very men who advocate the spoils system for public business, would call a man a fool if he proposed the same system for private business.—Thomas H. Benton.

both inefficient and unfaithful, is deemed the hight of folly. Is it any less so in public business? Do railroad or telegraph companies injure their business by changing their employés every time they change their presidents? Further, reasonable wages and employment during satisfactory service tend to promote honesty. Will not an accountant or weigher, public or private, who learns that he is to be superseded, be tempted to do wrong?

The law itself is new, but its principles are as old as the government, if not in fact as old as civilization. The fact that its principles are in exact conformity with both the principles and practices of the founders of the government, is a good if not perhaps the best argument that can be made in favor of its constitutionality, for it is not reasonable that the founders of the government would both preach and practice doctrine that is in violation of the Constitution.* The law is certainly not unconstitutional. It in effect simply authorizes the President to appoint commissioners to aid him in discharging his constitutional functions. The President's powers are therefore really increased, not, as charged by the opponents of the law, diminished. Thus, instead of hampering the President, the law materially increases his facilities for transacting business; and the increase of facilities is not greater than the increase of business.

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* Daniel Webster says (iv, 196, 198): "I think the legislature possesses the power of regulating the condition, duration, qualification, and tenure of office in all cases where the Constitution has made no express provision on the subject. * * * If Congress were to declare by law that the Attorney-General or the Secretary of State should hold his office during good behavior, I am not aware of any ground on which such a law could be held unconstitutional. A provision of that kind might be unwise, but I do not perceive that it would transcend the power of Congress."

Further, so far as the President is concerned, the enforcement of the law is optional instead of compulsory. In fact he can nullify it by merely refusing to enforce it. Thus everything is practically left to the President. This is precisely what the Constitution says Congress may do. Art. II., Sec. 4, says "the Congress may by law vest the appointment of such inferior officers as they think proper in the President *alone*, in the courts of law, or in the heads of departments."

This is the modest, not to say timid, way in which the Congress of 1883 sought "to regulate and improve" a small part of the national civil service. But here is the way in which President Madison, one of the framers* of the Constitution itself, says he would proceed (iv, 385): "The right of suffrage, the rule of apportioning representation, and the mode of *appointing to* and *removing from* office, are fundamentals in a free government, and ought to be fixed by the Constitution. An unforeseen multiplication of offices may add a weight to the executive scale, disturbing the equilibrium of the government. I should therefore see with pleasure a guard against the evil, * * * *even by an amendment of the Constitution.*"

Alexander Hamilton, another framer of the Constitution, not only advocated principles but even proposed a

* The opinions of the framers of the Constitution ought to have great weight. William E. Gladstone says: "As the British Constitution is the most subtile organism which has proceeded from progressive history, so the American Constitution is the most wonderful work ever struck off at a given time by the brain and purpose of man." If this does not increase the weight of the framers' opinions, what can? But the Constitution needs revising. Jefferson says (iii, 106): "Every constitution and every law naturally expires at the end of every 34 years." Speaking of other omissions, he said he thought the Constitution ought to contain a provision for "the restriction of monopolies." (ii, 229.)

plan very similar to both the plan and fundamental principles of the civil service law. Indeed it may be said that the law is only an enlargement and improvement of his plan. His "*select* assembly" would have been, what the Civil Service Commissioners are to-day, a material aid to the President, if not in fact a sort of second Cabinet. He says ("The Federalist," p. 355): "It will be agreed on all hands that the power of appointment, in ordinary cases, can be properly modified only in one of three ways. It ought to be vested in a single man; or in a *select* assembly of moderate number; or in a single man, with the concurrence of such an assembly." He deprecated "party bargains" (p. 356) as a mode of distributing offices, because "party victories" would "be more considered than the intrinsic merit of the candidate" or "the advancement of the service."

The *Federalist* papers were intended by their authors —Hamilton, Madison, and Jay—to be explanations of the Constitution. So it is hardly necessary to say that Hamilton's plan is what he believed to be the Constitution's plan.

John Jay, the first Chief Justice of the United States Supreme Court, did not, so far as I know, formulate any plan for or expatiate at length concerning the distribution of offices. But his actions, when Governor of New York, in 1795, spoke louder than plans, or even the emphatic words he then used, for he refused to make removals on account of politics, notwithstanding Gov. Clinton's officeholders had bitterly opposed him, and his (Jay's) political friends "anticipated the spoils of victory."* (Life of Jay, i, 392.) When one of the

* These words were written by William Jay, John Jay's son and biographer, before the delivery of Senator Marcy's spoils doctrine speech.

council of four men that then confirmed nominations, advised the Governor to appoint a Federalist to office, on account of "his zeal and usefulness," he replied: "That, sir, is not the question. Is he fit for the office?" In his inaugural address he said (i, 389): "To regard my fellow-citizens with an equal eye, to cherish and advance merit wherever found, * * * are obligations of which I perceive and acknowledge the full force."

The civil service law, so far as non-competitive examinations are concerned, is not without precedent. Two other acts, namely, sections 164 and 1753 of the United States Revised Statutes, provide as follows:

§ 164. No clerk shall be appointed in any department, in [any] of the four classes above designated, until he has been examined and found qualified by a board of three examiners.

§ 1753. The President is authorized to prescribe such regulations for the admission of persons into the civil service of the United States as may best promote the efficiency thereof, and ascertain the fitness of each candidate in respect to age, health, character, knowledge, and ability for the branch of service into which he seeks to enter; and for this purpose he may employ suitable persons to conduct such inquiries, and may prescribe their duties and establish regulations for the conduct of persons who may receive appointments in the civil service.

The civil service law is a careful elaboration and improvement of sections 164 and 1753. Therefore one is about as unconstitutional as the other. But even if all were unconstitutional, the abuses they are designed to correct would have to be dealt with by some other law. The law not only seems to be constitutional, but it or a law similar to it seems to be expressly authorized by the Constitution itself.* It causes, it must be admit-

* Art. i, § 8, says: "The Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof."

The United States Supreme Court says (106 U. S. Repts., 371): "With-

ted, a radical change. Therefore it is not strange that it should meet with opposition, for doubt and distrust are the natural consequences of all radical governmental changes. The Constitution itself was not an exception to this rule, for it was voted down by two of the States,* and even some of its framers doubted its permanent utility. Is it strange then that some men doubt the utility of the civil service law?

The Constitution requires that the President "shall take care that the laws be faithfully executed." In harmony with and apparently in view of this fact, the civil

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in the legitimate scope of this grant Congress is permitted to determine for itself what is necessary and what is proper."

In the practical application of government, the public functionaries must be left at liberty to exercise the powers with which the people by the Constitution and laws have intrusted them. They must have a wide discretion as to the choice of means; and the only limitation upon that discretion would seem to be that the means are appropriate to the end. (Storey on Const., § 432.)

The subject is the execution of those great powers on which the welfare of the nation depends. * * * This could not be done by confining the choice of means to such narrow limits as not to leave it in the power of Congress to adopt any which might be appropriate and which were conducive to the end. (4 Wheaton, 415.)

The question whether a statute is a valid exercise of legislative power is to be determined solely by reference to constitutional restraints and prohibitions. It may not be declared void because deemed to be opposed to natural justice and equity. (74 New York Reports, 509.)

The construction given to a statute by those charged with the duty of executing it, ought not to be overruled without cogent reasons. The officers concerned are usually able men and masters of the subject. Not unfrequently they are the draughtsmen of the laws they are afterward called upon to interpret. (113 United States Reports, 571.)

* Rhode Island and North Carolina. George Bancroft says (His. of Const., ii, 350): "Neither of the two States which lingered behind remonstrated against the establishment of a new government before their consent; nor did they ask the United States to wait for them. The worst that can be said of them is that they were late in arriving."

service law authorizes the President to make his own rules for its execution, and requires the Commissioners to aid him, "as he may request," in preparing them. As the rules are subject to such modifications as the President and his aids may find necessary, they ought in the course of time to become not only satisfactory as rules, but also important adjuncts to the law itself. This is well, for the law, which has not yet, except in certain places, had a fair trial, may have faults of both omission and commission, the exact nature of and remedy for which time only will determine.* Therefore, in the meantime, good rules will give it strength as well as facilitate its execution. The execution of the law, like the law itself, is simple, but it is laborious, for examinations are held in nearly every State and Territory twice a year.

* Sir George Cornwall Lewis says ("Methods of Observation and Reasoning in Politics," i, 173): "A government is, by the nature of its action, constantly trying experiments upon the community. All new measures, all laws enacted for the first time, are in the nature of experiments. They are not indeed scientific experiments; but they are experiments made for a practical purpose, and they are regarded merely as provisional and tentative until experience has proved their fitness and they are confirmed by the proof of practical success. Being tried, not *in corpore vili*, but upon the lives and fortunes of the people, the conduct of the experiment must be regulated by the nature of the subject upon which it is made. Hence the progress of such experiments is carefully watched by the legislature, while the executive authorities proceed cautiously and gently with a new law, feeling their way as they advance, and exercising their discretion as to its more rapid or tardy advancement, either generally or in particular districts. It is by trying a new law on a people, as the maker of new apparel fits it on the body, and by enlarging here and diminishing there, where it does not suit the shape, that the legislature gradually adapts its work to the wants and feelings of the community. This is an experimental process, for the purpose, not of ascertaining a general truth, but of improving the institution, and of giving it the form best suited to the circumstances of the nation."

CHAPTER II.

COMPETITIVE EXAMINATIONS.

Their Utility proved by trial by Probation, examinations for Promotion, contrasts with non-Competitive Examinations, &c.—Appointees independent of Politicians.—The education required.—Opinions and Experiences of practical men, &c.

THE competitive examinations, which may be called the backbone of the civil service law system, about which there is more or less complaint, are a simple mode of ascertaining the relative theoretical qualifications of applicants for office, and of naming those who are entitled to trial by probation as to their practical qualifications before final appointment. The proceedings of the examiners are as impartial as are those of a court of justice, and "are open to such spectators as can be accommodated without interfering with the quiet due to those being examined." The examiners know the applicants and their respective papers by numbers, not by names.* There is therefore practically no reason for favoritism† on the part of the examiners,

* Regulation 21. The examination papers of each applicant shall be marked only with a number, and his name with his number shall be placed in a sealed envelope, which shall not be opened until after his papers are marked.

Regulation 35. Complaints which show injustice or unfairness on the part of any Examining Board, or any one acting under the Commission, or any error in marking, will be considered by the Commission, and if necessary it will revise the marking and grading on the papers, or order a new examination, or otherwise do justice in the premises.

† It (the Commission) does not regard itself or the examiners as hav-

and consequently no reason for complaint on the part of the applicants. Applicants who answer seventy per cent. of the questions asked, except veteran soldiers and sailors, who are required to answer but sixty-five, are eligible, when wanted, to trial by probation, without further examination. Those who do not, are eligible to try again in some future examination.

The utility of competitive examinations is proved in many ways, but best perhaps by trial by probation. Trial by probation is for six months. It is the governor, as it were, of the civil service law system. Its province is to correct an inherent fault of all theoretical examinations, namely, the indorsement now and then by the examiners of impracticable theorists. Experience shows that, when tried by probation, less than two per cent. of the applicants who have passed competitive examinations fail of final appointment. What system could do better? The utility of the system is also proved by examinations for promotion among office-

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ing any more right to take into account requests, recommendations, or the wishes or sympathies of persons, however high in official and social standing, than a judge or jury has to depart from the law or the evidence by reason of such interposition. (Com'rs' Third An. Rept, p. 73.)

The Postmaster-General has found the recommendations of persons for inspectors in the Postal service, who are not yet within the civil service examinations, to be so unreliable that he has been compelled to resort to examinations to protect himself against fraud and incompetency. For the same reasons the Secretary of the Navy has enforced examinations for securing skilled workmen at the navy-yards. (Ibid., p. 60.)

Applicants are required to file formal application papers. These are of themselves "a sort of preliminary examination," for they contain a record of the birth, age, education, physical condition, capacity for business, residence, &c., of each applicant. Besides this three reputable persons must vouch for the applicant's character. In New York and Massachusetts the sponsors must certify their willingness that their certificates may be published. This makes them careful.

holders themselves. The records in such cases are decidedly in favor of those who have passed competitive examinations as against those who have not. Examinations for promotion should receive careful attention, for sooner or later many chief officials may be chosen from among the subordinates who pass best in them.*

The best feature perhaps of the competitive system is the entire independence of its appointees of politicians. How can public business be efficiently conducted if politicians practically appoint, control, and tax the men who conduct it? Under the competitive system appointees win their positions by merit, and by merit only can they retain them or be promoted.

The civil service law system of competitive examinations is similar to the system of choosing cadets to the military school at West Point,† that is when the latter is not made a matter of patronage, and it compares favorably with it in its results. The failures, in after life, among the cadets who graduate, like those who are tried by probation in the civil service, are less than two per cent. The cases are not strictly analogous, but

* In 1860 a Parliamentary Committee of Investigation said that among the ends to be accomplished was the following: "To encourage industry and foster merit, by teaching all public servants to look forward to promotion according to their deserts, and to expect the highest prizes in the service if they can qualify themselves for them." (Eaton's "Civil Service in Great Britain," p. 220.)

† The respective civil departments of the government being in effect schools of practical instruction, as in fact are all offices, vocations, and avocations, would it not be policy, when practicable, to make them, like West Point and Annapolis, schools of special theoretical instruction also? In practical instruction, under the civil service law system, they are equal if not superior to either West Point or Annapolis. Such schools would produce diplomatists, financiers, soldiers, &c. All able-bodied public employés should be soldiers, for they not only belong to but are a part of the government itself.

educational tests are required in both, and trial by probation also, it may be said, for the cadets are practically on trial for four years, during which time incompetent persons are weeded out by numerous examinations.

Again, the examinations are a check on politically ambitious officeholders. For example, under the patronage system the Collector of the Port of New York, wishing to be Governor of the State of New York, can remove subordinate officials, with or without cause, to make room for his personal political supporters. Under the competitive or merit system he is checked in two ways. 1. While he has an unrestricted power of removal, it is dangerous to abuse it, for, as before said, he has to furnish the Civil Service Commissioners with records of removals, rejections, &c. 2. He cannot make appointments to office, except in conjunction with other officials, with whom he has no connection, and then only such as have passed an examination.

The examinations relieve the President of burdens of which Washington complained, even before his inauguration as President. ("Writings," ix, 479.) As the public offices have increased about a hundredfold since Washington's day, it is self-evident that a proper examination into the qualifications of *all* subordinate officeholders would occupy the time of at least fifty men, that is if the officeholders were changed every four years. Hence the enactment of sections 164 and 1753 of the United States Revised Statutes, and finally of the civil service law. The President and Cabinet nowadays are sometimes overworked in the performance of regular official duties. Those of the Secretary of the Treasury are sufficient for two men.

The failure now and then of worthy and practical men to get appointments is no valid argument against the competitive system, for where there are so many

applicants, the same thing will occur sometimes under any system. No system of course is perfect. But can any system do more than require applicants to prove both theoretical and practical ability before appointment? The question of satisfactory future service is always a problem, let the business be public or private, and must be taken for granted. Further, the failure of men who have passed creditable competitive examinations to get public employment is the means sometimes of securing them private employment.*

For ordinary purposes competitive examinations are superior to non-competitive in perhaps every respect; further, it is far more creditable to an applicant to pass the former than the latter. The non-competitive examinations held under Sec. 164 soon degenerated into a farce, the questions asked, according to J. D. Cox, consisting of such as the following: "How far is it to your boarding-house?" Competitive examinations will probably never degenerate into a farce. The number, vigilance, and jealousy (jealous of their rights) of competitors alone will prevent this, and will also tend to prevent favoritism on the part of appointing officers. President Grant denounced the non-competitive system in 1870, and John Stuart Mill says it "never, in the long run, does more than exclude absolute dunces."

The competitive examinations, while not a guarantee of good character, are sometimes, but very rarely, the means of exposing bad character. Dorman B. Eaton,

* See pages 14, 15, 16 of this work; also U. S. Civil Serv. Com. Rpts.

NOTE.—The McCormick Harvesting Machine Co. of Chicago say: "In reply to your queries, we beg leave to say that we do not hold competitive examinations with our employés, either in the shops or in the field. We have the school-house always running to educate them to our manner of doing business. We promote the most worthy."

The latter rule is the same as the civil service law rule.

who speaks from experience, having been a Civil Service Commissioner, and having also studied the subject (civil service) in Europe, says ("The Spoils System and Civil Service Reform," p. 60): "Every competitor has his chance of an appointment increased by every one he can strike from the list above him. If he can expose bad character in any person graded higher, that person will be no longer in his way. This interest leads to inquiry and exposure." But, Mr. Eaton might have added, this privilege is liable to abuse.*

The claim that a collegiate education is necessary to pass a competitive examination is not sustained by the facts. As a rule about 85 per cent. of the appointees, as is shown in the INTRODUCTION, are from common schools and 15 from colleges. But it is true that some offices require proficiency in a greater number of studies than others, and that others again require special education. The fact that more or less knowledge of mathematics, grammar, geography, and a few other elementary studies, is necessary to the proper discharge of general commercial and financial business is certainly indisputable, and it is no hardship for young men fresh from school to be examined in them. But with elderly men the case is different. It is not reasonable to expect them to describe the minute details of these studies after fifteen, twenty, or twenty-five years of more or less disuse.† There is need of intelligent and practical

* The Commissioners say (Third Annual Report) that out of more than 17,000 individual examinations, not more than six or seven unworthy persons have been discovered on the records. "The 'Records' are the books in which the names of applicants for examination are entered. The 'Registers' are the books in which the names of those found eligible for appointment after examination are entered."

† The Commissioners' Report for 1885 says business experience is almost the exact equivalent of a fresh recollection of studies.

discrimination here. In private business uneducated men do not apply for work which requires educated men. It would be useless. But in public business the case is different. This fact alone justifies competitive examinations.

The requirement of educational qualifications on the part of officeholders is not new in this government, nor perhaps in any other. Washington says ("Writings," ix, 461): "The nominator ought to be governed primarily by the abilities which are the most peculiarly adapted to the nature and duties of the office which is to be filled." In his last message to Congress Washington recommended the establishment of both a Military School and a National University, the specific object of the latter to be, he said, "the education of our youth in the science of government. In a republic," he continues, "what species of knowledge can be equally important?" (Benton's Abridged Debates, ii, 16.) His admonition, in his Farewell Address, to promote "the general diffusion of knowledge" is familiar to every school-boy.

Albert Gallatin, writing to Jefferson, in 1801, said: "So far as respects subordinate offices, talent and integrity are to be the only qualifications." Jefferson, in reply, said: "Talent and worth alone are to be inquired into." (Adams's Gallatin, p. 279.)

Edward Everett, in an address on "The importance of Education in a Republic," says ("Orations," &c., ii, 319, 320): "But I have not yet named all the civil duties for which education is needed as the preparatory discipline. The various official trusts in society are to be filled, from a Commission of the Peace to the place of Chief Justice; from a Constable up to the President of the United States. The sphere of duty of some of these functionaries is narrow; of others, large and in-

expressibly responsible; of none, insignificant. Taken together, they make up the administration of free government—the greatest merely temporal interest of civilized man. There are three courses, between which we must choose. We must have officers unqualified for their duties; or we must educate a privileged class to monopolize the honors and emoluments of place; or we must establish such a system of general education as will furnish a supply of well-informed, intelligent, and respectable citizens, in every part of the country and in every walk of life, capable of discharging the trusts which the people may devolve upon them. The topic is of great compass, but I cannot dwell upon it. It is superfluous to say which of the three courses is most congenial with the spirit of republicanism."

Similar citations might be made from many other statesmen, but they are certainly superfluous. Some statesmen's deeds speak louder than words; as, for example, Governor Samuel J. Tilden's late posthumous gift for educational purposes.

The New York Civil Service Commission says (Second Report, 1885, p. 20): "The competitive method is supported by reasons so obvious and cogent that argument in its favor seems almost superfluous. Competition is the law of nature, and is universal in its application. It prevails in every department of human activity, and is the test by which men are measured in every profession, calling, and sphere. It is the only absolutely democratic rule, and therefore consonant with the spirit of our institutions, founded on the political equality of men. By eliminating the elements of favoritism, nepotism, and partisan recompense, it stimulates manly aspirations, develops independence in thought and character, protects the equal rights of every citizen, and secures fair play against selfishness and presumptuous mediocrity."

Again the Commission says (Same Report, p. 24): "It is rapidly becoming clear that the system of competitive examinations is easily applicable to almost every subordinate post, however high, in every branch of the public service, State or municipal. In Ireland the four national examiners of the public schools are selected by competitive examination, and a note of the subjects for examination gives an idea of the varied scientific and scholarly attainments in which the applicants must be versed."

And again the Commission says (Fourth Report, 1887, p. 26): "One advantage of the competitive system, on which stress has been laid by a Professor of Trinity College, Dublin, is in its avoidance of animosities arising from religious differences, which, he remarked some thirty years ago, 'are greatly embittered by the patronage system.'"

Mayor Seth Low of Brooklyn, New York, in 1885, said of the competitive system: "There is a fairness and openness about it peculiarly American, and smacking of all that is best in the American love of fair play and the American demand for equal treatment of all citizens."

Governor David B. Hill says (An. Message, 1886): "Open competition rests on the solid basis of equal rights and fair play, and is a principle so thoroughly democratic in its character, so completely in harmony with the theory of our institutions and the spirit of our people, that the method would seem to commend itself to universal approval. When merit alone, ascertained by fair competition, is recognized as the ground of appointment and promotion, the equity and propriety of the mode are self-evident and require no defense. * * * It is besides a constant stimulus to the better education and training of the people, and a recognition of the utility of our common schools, sustained at the public

expense, and an incentive for the best men to seek the public service."

Collector William H. Robertson, writing Dec. 8, 1883, says (First Rept. New York C. S. Com., p. 266): "For several years the civil service system has been in force in the Custom House at this Port, and the results are highly gratifying to its friends. The appointments are made upon competitive examination wherever it is practicable to do so. No wiser or safer rule could be devised for filling these offices."

Postmaster Henry G. Pearson of New York, who also believes in the wisdom of competitive tests, says (Same Report, p. 271): "I do not desire, however, to be understood as maintaining that the system of appointment through competitive examination is a never-failing means of securing the services of none but the most efficient and deserving for the performance of the public business. In spite of all precautions, it is and has been possible for idle, intemperate, dishonest, and careless persons to obtain employment under that system. But the cases have been rare in which those defects have not been discovered before the expiration of the six months' term of probation, and the unfaithful or incompetent servant dismissed."

Silas W. Burt, who speaks from experience as Naval Officer of the Port of New York and also Chief Examiner of the New York Civil Service Commission, says (Second Rept. N. Y. C. S. Com., p. 47): "Open competition gives the broadest scope of choice, determines with substantial accuracy the relative fitness of all who apply, and puts on record all the transactions, with their details."

As early as 1881, two years before the passage of the civil service law, the New York Chamber of Commerce, whose members' business connection with Custom House

officials makes them eminently qualified to judge of their merits, passed the following among other resolutions:

Resolved, That in the judgment of this Chamber the system of examinations for appointment to place in the Custom House, which has ruled during the last few years, has been of substantial value to the mercantile community, and is, in their eyes, of great importance.

Resolved, That this Chamber hereby instructs its Committee on Foreign Commerce and the Revenue Laws to wait upon the new Collector, when he shall be installed, with a copy of these resolutions, and to press upon his attention the importance of their subject-matter.

The following maxim of Webster is similar in principle to competitive examinations (iii, 4): "Nothing is more unfounded than the notion that any man has a *right* to an office. This must depend on the choice of others, and consequently on the opinions of others, in relation to his fitness and qualification for office."

Edwin L. Godkin says ("Danger of an Officeholding Aristocracy," p. 14): "It may be laid down as one of the maxims of the administrative art, that no public officer can ever take the right view of his office, or of his relation to the people whom he serves, who feels that he has owed his appointment to any qualification but his fitness, or holds it by any tenure but that of faithful performance. No code of rules can take the place of this feeling. No shortening of the term can take its place."

So far as my researches go, Commissioner of Patents S. S. Fisher has the honor of being the first person to practice the system of competitive examinations in this country. He began them in 1869, and his example was followed by most if not all of his successors in the

Patent Office. Colonel Fisher, who was a well-known patent lawyer, accepted office more to accommodate President Grant than anything else. But as his profession was more remunerative than his office, he resigned at the end of eighteen months.

John L. Thomas, Collector of the Port of Baltimore, instituted, in 1869, strict non-competitive examinations in the Baltimore Custom House. The system was so satisfactory that his two successors in office continued it. When Mr. Thomas was again appointed Collector, in 1877, he found that all the clerks, with three or four exceptions, whom he had appointed between 1869 and 1873 had been retained; and when he left the office, in 1882, they were still there. (Senate Report No. 576, for 1882, pp. 179, 182.)

Silas W. Burt instituted competitive examinations for promotion among the employés in the New York Naval Office in 1871. This was on his own responsibility. In 1872 he began competitive examinations under the Grant rules for general admission to the service. In the same year Postmaster Patrick H. Jones began competitive examinations in the New York Postoffice. These were continued by his successor in office, Thomas L. James, in 1873. In 1879 Mr. James improved the system, and issued "Rules governing appointment and promotion in the New York Postoffice."

Collector Chester A. Arthur, who was appointed in 1871, introduced radical changes in the New York Custom House. Mr. Eaton says ("Term and Tenure of Office," p. 82) that in five years Mr. Arthur made only 144 removals as against 1,678 during the preceding five years. Mr. Arthur advocated as well as practiced reform in the civil service, as is shown in Chapter VII of this work.

CHAPTER III.

SOME OF THE LAW'S PROMISES.

Reforms of priceless value Probable.—The danger of Bribery at Elections.—Opinions thereon of Messrs. Buchanan, Harrison, Benton, Jefferson, Barton, Bell, and Graves.—The chief English Election Laws from 1275 to 1883.

An honest and intelligent enforcement of the civil service law promises to have numerous beneficial effects, some of which are more or less indirect. This is natural. A good law not only aids in and leads to other reforms, but is sometimes the parent of other good laws. Further, it creates a general spirit of reform.

It promises, by securing the services of men of business as well as intellectual ability, to materially increase, if not double, the efficiency of the civil service. In fact this has been partly accomplished already. Increase of efficiency will naturally lead to perfection of system, and perfection of system will naturally lead to economy. Are efficiency and system probable, or, in a great degree, even possible, when officeholders are appointed chiefly on account of their politics, and without much if any regard to their ability to discharge the peculiar duties of their offices, and who, for obvious reasons, take more interest in politics than in their official business?

It promises to aid in purifying and elevating politics, and to thereby induce and encourage men of character and ability to take part in the affairs of state. It was by such men that the government was founded, and it

is only by such that it can be preserved. Hence the necessity of using any and every means to thwart the bold and violent men whom Franklin warned us would thrust themselves into our government and be our rulers.

It has materially interfered with and promises to ruin what, for lack of a better name, may be called the office brokerage business, the stock in trade of which has heretofore consisted rather in the promise than the bestowal of office. When there are fewer offices to either promise or bestow, the evil will be abated; and when there are none at all, it will cease altogether.

It promises to stimulate and lead men to vote for principle—principle, the pedestal on which the monument of republican institutions rests!—principle, the life-blood of the body-politic! When men vote for principle, they vote to refresh, preserve, strengthen, deepen, broaden, and spread republican institutions. This is as unquestionable as is the opposite proposition that when they vote from purely selfish motives, they vote to undermine and weaken republican institutions, and to sooner or later put pirates in command of the ship of state. From Alderman to President men should vote for principle. And voting for a man *of* principle is voting *for* principle. Officeholders themselves can now so vote, for, as before said, they are independent of politicians. This is well, because it is not only proper to so vote, but a respectful independence, even of officeholding itself, is both desirable and commendable.

It promises to at least ameliorate an evil that threatens the most direful ultimate results, namely, bribery at elections. Even the amelioration of this body-politic cancer is a matter of importance, for in the course of time, with the aid of and in conjunction with other reforms, it may be practically eradicated. The nation can

stand the sporadic and local corruptions that are the bane of private as well as public business, but it cannot stand, *as a republic*, the general, far-reaching, and multiform evils that continual bribery at elections will cause.*

If the cause of corruption at elections be removed, there will be no corruption. As official patronage, either direct or indirect, is a great if not perhaps the chief cause of corrupt elections, it logically follows that the less patronage there is, the less corruption there will be. Therefore if all, or nearly all, of the non-elective public offices were distributed strictly as rewards of merit, and without regard to politics, there would be far less corruption at elections. This plan ought besides to materially increase public interest in elections, in which of course too much care and interest cannot be taken. The civil service law will aid in accomplishing this reform; and in this way it will tend to renew and strengthen public confidence not only in the fidelity and sacredness of the ballot, but in the stability of the government itself.

President Buchanan, writing to the Pittsburg Centenary Celebration, in 1858, said (Reports Coms. H. of Rep., 36th Cong., 1st Sess., 1859–60, v, 25): "We have

* Webster says (iv, 179, 180): "The principle of republican governments, we are taught, is public virtue; and whatever tends either to corrupt this principle, to debase it, or to weaken its force, tends, in the same degree, to the final overthrow of such governments. * * * Whenever personal, individual, or selfish motives influence the conduct of individuals on public questions, they affect the safety of the whole system. When these motives run deep and wide, and come in serious conflict with higher, purer, and more patriotic purposes, they greatly endanger that system; and all will admit that, if they become general and overwhelming, so that all public principle is lost sight of, and every election becomes a mere scramble for office, the system inevitably must fall."

never heard until within a recent period of the employment of money to carry elections. Should this practice increase until the voters and their representatives in the State and National legislatures shall become infected, the fountain of the government will be poisoned at its source, and we must end, as history proves, in a military despotism. * * * When the people become venal, there is a canker at the root of the tree of liberty which must cause it to wither and die."

President Harrison, in 1841, in a circular prepared by his Secretary of State, Daniel Webster, said (Civil Service Reform League Proceedings, 1885, p. 15): "I will remove no incumbent * * * who has faithfully and honestly acquitted himself of the duties of his office, except where such officer has been guilty of an active partisanship, * * * thereby bringing the patronage of the government in conflict with the freedom of elections." (These words appear in Tyler's inaugural also.)

Senator Thomas H. Benton, in reporting, in 1826, on the "expediency of reducing the patronage of the Executive," said (Appendix to Gales & Seaton's Debates in Congress, 1826, p. 137): "The power of patronage, unless checked, must go on increasing until Federal influence will predominate in elections as completely as British influence predominates in the elections of Scotland and Ireland. * * * 'The President wants my vote, and I want his patronage. I will vote as he wishes, and he will give me the office I wish for.' What will this be but the government of one man? and what is the government of one man but a monarchy?"

Thomas Jefferson, in a letter to Governor Thomas McKean of Pennsylvania, in 1801, says ("Writings," iv, 350): "The event of the election is still *in dubio*. A strong portion in the House of Representatives will prevent an election if they can. I rather believe they

will not be able to do it, as there are six individuals of moderate character, any one of whom, coming over to the Republican vote, will make a ninth State. Till this is known, it is too soon for me to say what should be done in such atrocious cases as those you mention, of Federal officers obstructing the operation of the State governments. One thing I will say, that, as to the future, interference with elections, whether of the State or general government, by officers of the latter, should be deemed cause of removal, because the constitutional remedy by the elective principle becomes nothing, if it may be smothered by the enormous patronage of the general government. How far it may be practicable, prudent, or proper to look back, is too great a question to be decided but by the united wisdom of the whole administration when formed."

Mr. Jefferson issued a circular to the officers of the government after his election, wherein he said he had "seen with dissatisfaction officers of the general government taking, on various occasions, active parts in the election of public functionaries, whether of the general or State governments." He further said that an officer should "not attempt to influence the votes of others, nor to take any part in the business of electioneering, that being deemed inconsistent with the Constitution and his duties to it."

Senator David Barton of Missouri says (Gales & Seaton's Debates, 1830, vol. vi, pt. i, p. 462): "The freedom and purity of elections are as essential to our liberties as the pillars to the dome they support."

Representative John Bell of Tennessee (afterward United States Senator, and, in 1860, a prominent candidate for the presidency), introduced, in 1837, "A bill to secure the freedom of elections." In the course of a most remarkable speech he said (G. & S.'s Debates, vol.

xiii, pt. ii, pp. 1455, 1462, 1475, 1478): "I presume, sir, it will scarcely be denied that a large proportion of the officers of the Federal government, from the President down to the lowest grade of persons employed in its service, have interfered of late in all Federal elections, directly, openly, and industriously. * * * Offices and employments have been given as the wages of political profligacy—the rewards of hireling service in support of favorite candidates. * * * The abuse of patronage is the Pandora's box of our system. It is the original sin of our political condition, to which every other sin of the times may be fairly ascribed. * * * It is labor thrown away to pursue with research, however relentless and penetrating, the authors of corruption in the public offices, while the prolific parent of all is permitted to survive. * * * It is * * * not so much the aggregate amount of patronage within the control of the government as it is the want of proper legal limitations and restrictions upon the use of it, in the hands of the Executive, which is to be dreaded and guarded against. All other dangers in the operation of the government will wear out by time, and are of small moment in comparison with this of patronage. * * * If, in war between civilized nations, the spoils principle is regarded as too dangerous for the general safety of property and society, how much more dangerous and insufferable must such a principle be when applied to the contests for power between political parties in a free government?"*

* Mr. Bell quotes copiously from English history. He says (p. 1472) that, in 1779, "A Lord Lieutenant of a county, an officer appointed by the Crown, was detected in writing to his friends in the county of Southampton, urging them to give their support to his friend, who was also the government candidate for Parliament. When his conduct was brought before the House of Commons, and some of the letters which

Representative Wm. J. Graves of Kentucky, speaking of Mr. Bell's freedom of elections bill, said (Same Debates, pp. 1517, 1518, 1525): "In 1829 the attention of this nation was called to this subject, in the most solemn manner, by General Jackson, in his first inaugural address, in which he employs the following language: 'The recent demonstrations of public sentiment inscribe on the list of executive duties, in characters too legible to be overlooked, the task of reform, which will require particularly the correction of abuses that have brought the patronage of the Federal government into conflict with the freedom of elections.' * * * This was the precept of President Jackson when first elected. But, incredible to tell, in the first term of his administration he hurled from office between nine hundred and one thousand officers. * * * Just as well might General Jackson march the regular army to the doors of this capitol, and demand the head of every member or Senator who has dared to speak the truth of him, as to

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he had written exhibited, Lord North ventured to say that he thought the case presented no great cause of alarm. Instantly, and it would appear from all sides of the House, there arose such indignant clamors that it was some time before order could be restored, and Lord North was obliged to explain and qualify his meaning. But the most decisive proof of the spirit which prevailed upon the subject, even in corrupt times, and the odium in which all intermeddling of officeholders in elections has ever been held in Great Britain, is to be found in the following resolution, which the House of Commons adopted on that occasion (1779), without a division, and without a dissenting voice:

"'Resolved, That it is highly criminal for any minister or ministers, or any other servant of the Crown in Great Britain, directly or indirectly to make use of the power of his office in order to influence the election of members of Parliament; and that an attempt to exercise that influence is an attack upon the dignity, the honor, and the independence of Parliament, an infringement of the rights and liberties of the people, and an attempt to sap the basis of our free and happy Constitution.'"

wreak his vengeance, or that of some unprincipled subaltern, upon the helpless officer, by hurling him from his station, for daring to discharge his constitutional right at the polls. Yes, a thousand times better would it be for the country, for in the one case the people would see and understand the object of the movement, and would fly to the rescue, and deal out vengeance on such a blood-thirsty despot; whilst in the other case the same object is attained by the concentration of all power in the hands of one man, but in a secret, sly, and insinuating mode, which it seems the acuteness of the public vision has not yet so clearly discerned."

George William Curtis lays down the following fundamental principles for the general guidance of office-holders ("Harper's Weekly," Nov. 19, 1887): "When a man accepts public office he necessarily surrenders the exercise of certain private rights as a citizen. He is morally bound to promote public respect for the office that he holds and personal confidence in himself. He is bound in every proper way to prevent all suspicion that he misuses his position either for a personal or a partisan object. He is indeed a member of a party, and by a party he is nominated and elected. But he administers his office not for the benefit of a party, but of the people; and while upon fitting occasions and in a becoming manner he may justly profess his confidence in the political principles that he holds, he cannot without gross impropriety descend to the mere details of party contention, and endeavor by the weight of his official position to promote the interest of individual party candidates."

As before said, too much care and interest cannot be taken in elections. The recognition of this fact no doubt accounts, to a great extent, for the wonderful stability of the English government, a stability that has carried it through war after war, civil as well as foreign,

and even revolutions. The following extracts from the chief election laws passed by that government show the jealous care with which it has guarded, defended, and perfected its elective franchise system. Every act was passed for the purpose of remedying dangerous evils.

In 1275 (3 Edward I) it was provided: "And because elections ought to be free, the King commandeth upon great forfeiture, that no man by force of arms, nor by malice or menacing, shall disturb any to make free elections." (The Statutes: Revised Edition, i, 16.)

In 1429 (8 Henry VI, 7) Parliament passed the following law: "Item, whereas the elections of knights of shires to come to the Parliaments of our Lord the King, in many counties of the realm of England, have now of late been made by very great, outrageous, and excessive number of people dwelling within the same counties of the realm of England, of the which most part was of people of small substance, and of no value, whereof every of them pretended a voice equivalent, as to such elections to be made, with the most worthy knights and esquires, dwelling within the same counties, whereby manslaughters, riots, batteries, and divisions among the gentlemen, and other people of the same counties, shall very likely rise and be, unless convenient and due remedy be provided in this behalf; our Lord the King, considering the premises, hath provided, ordained, and established, by authority of this present Parliament, That the knights of the shires to be chosen within the same realm of England to come to the Parliaments of our Lord the King hereafter to be holden, shall be chosen in every county of the realm of England by people dwelling and resident in the same counties, whereof every one of them shall have free land or tenement to the value of 40 shillings by the year at the least above all charges; and that they which shall be so chose shall

be dwelling and resident within the same counties; and such as have the greatest number of them that may expend 40 shillings by year and above, as afore is said, shall be returned by the sheriffs of every county, knights for the Parliament, by indentures sealed between the said sheriffs and the said choosers so to be made." * * * (Ruffhead's Stat. at Large, i, 481.)

In 1444 (23 Henry VI), owing to sheriffs returning "knights, citizens, and burgesses * * * which were never duly chosen," and other fraudulent practices, a stringent law was passed, which, among other things, imposed a fine of £100 to the King and £100 to the aggrieved person for false election returns.

In 1690 (2 William and Mary, 7) Parliament passed "An act to declare the right and freedom of election of members to serve in Parliament for the Cinque Ports" as follows: "Whereas the election of members to serve in Parliament ought to be free; and whereas the late Lord Wardens of the Cinque Ports have pretended unto, and claimed as of right, a power of nominating and recommending to each of the said Cinque Ports, the two ancient towns, and their respective members, one person whom they ought to elect to serve as a baron or member of Parliament for such respective port, ancient town, or member, contrary to the ancient usage, right, and freedom of elections, * * * be it therefore declared * * * that all such nominations or recommendations were and are contrary to the laws and constitutions of this realm, and for the future shall be so deemed and construed." (Ruffhead, &c., iii, 422.)

In 1696* (7 and 8 William III, 4) Parliament passed

* T. B. Macaulay, writing of this period, says ("History of England," iv, 549): "It was something new and monstrous to see a trader from Lombard street, who had no tie to the soil of our island, and whose

"An act for preventing charge and expense in elections of members to serve in Parliament" as follows: "Whereas grievous complaints are made * * * of undue elections of members to Parliament, by excessive and exorbitant expenses, contrary to the laws, and * * * dishonorable, and may be destructive to the constitution of Parliaments, * * * be it enacted * * * that no person or persons hereafter to be elected to serve in Parliament, * * * shall * * * directly or indirectly give, present, or allow to any person or persons, having voice or vote in such election, any money, meat, drink, entertainment, or provision * * * to or for such person or persons * * * in order to be elected, or for being elected, to serve in Parliament. * * * And * * * that every person and persons so giving * * * are hereby declared and enacted disabled and incapacitated, upon such election, to serve in Parliament." (Ruffhead, iii, 570.)

During the same year Parliament passed "An act for the further regulating elections of members to serve in Parliament, and for the preventing irregular proceedings of sheriffs and other officers in the electing and returning such members." The preamble charges that "freeholders and others, in their right of election, as also the persons by them elected to be their representa-

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wealth was entirely personal and movable, post down to Devonshire or Sussex with a portmanteau full of guineas, offer himself as a candidate for a borough in opposition to a neighboring gentleman, whose ancestors had been regularly returned ever since the Wars of the Roses, and come in at the head of the poll. Yet even this was not the worst. More than one seat in Parliament, it was said, had been bought and sold over a dish of coffee at Garraway's. The purchaser had not been required even to go through the form of showing himself to the electors. Without leaving his counting house in Cheapside, he had been chosen to represent a place which he had never seen. Such things were intolerable."

tives, have heretofore been greatly injured and abused." (iii, 589.)

In 1729 (2 George II, 24) Parliament passed "An act for the more effectual preventing bribery and corruption in the elections of members to serve in Parliament." The elector's oath is as follows: "I, A. B., do swear * * * I have not received, * * * directly or indirectly, any sum or sums of money, office, place, or employment, gift or reward * * * in order to give my vote at this election, and that I have not been before polled at this election." The presiding officer had to administer the oath or forfeit £50, and a bribed voter forfeited £500, and was forever disfranchised and treated as if he "was naturally dead." (v, 510.)

In 1734 (7 George II, 16) a stringent act was passed "for the better regulating the election of members to serve in the House of Commons for that part of Great Britain called Scotland; and for incapacitating the judges of the Court of Session, Court of Justiciary, and barons of the Court of Exchequer, in Scotland, to be elected or to sit or vote as members of the House of Commons." (v, 651.)

"An act for regulating the quartering of soldiers during the time of the elections of members to serve in Parliament," passed in 1735, required that, inasmuch as "all elections ought to be free," all soldiers should be removed two miles from the place of election. (v, 681.)

By "An act for the better regulating of elections," &c., passed in 1746 (19 George II, 28), voters are required to swear that they have "a freehold estate * * * of the clear yearly value of forty shillings, * * * and that such freehold estate has not been granted or made to you fraudulently, on purpose to qualify you to give your vote." (vi, 312.)

In 1782 (22 George III, 41) Parliament passed "An

act for the better securing the freedom of elections," &c., which disfranchised excise, customs, and postoffice employés to the number of about 40,000. A violation of the law entailed forfeiture of office and a fine of £100. (ix, 230.)

The passage of this act was the result of corruption among the officials named. It remained in force till 1858, when, on account of the reforms brought about by the present British civil service law, an act of re-enfranchisement was passed. It is a consolation to know that this course has never been necessary in this country.

In 1827 (7 and 8 George IV, 37) Parliament passed "An act to make further regulations for preventing corrupt practices at elections," &c., wherein it is declared that "if any person shall, either during any election, * * * or within six calendar months previous to such election, or within fourteen days after it shall have been completed, be employed at such election as counsel, agent, attorney, poll clerk, flagman, or in any other capacity, for the purposes of such election, and shall at any time, either before, during, or after such election, accept or take, * * * for or in consideration of or with reference to such employment, any sum or sums of money, retaining fee, office, place, or employment, * * * such person shall be deemed incapable of voting at such election, and his vote, if given, shall be utterly void and of none effect." (xi, 126.)

The present English election law, passed in 1872, which is founded on the Australian election system, is perhaps the best law of its kind ever devised. William M. Ivins says ("Machine Politics and Money in Elections in New York City," pp. 90, 91, 94, 95, 96): "This act provides that at every poll at an election the vote shall be given by ballot; that the ballot of each voter

shall contain the names and description of *all* the candidates for the particular office for which he is voting, which ballot-paper has a number printed on the back of it, and is attached to a stub, or 'counter foil,' as it is called, with the same number printed on the face of the stub. * * * All voters are registered before each election, and when the voter has registered, he is given a registration number. This registration number is marked on the stub of the ballot at the time the ballot is delivered to him. * * *

"The following is the form of directions for the guidance of the voter in voting, which is required by the English law to be printed in conspicuous characters and placarded in every polling-station and in every compartment of every polling-station :

"'The voter may vote for —— candidates. The voter will go into one of the compartments, and with a pencil provided in the compartment, place a cross on the right-hand side opposite the name of each candidate for whom he votes. The voter will then fold up the ballot-paper, so as to show the official mark on the back, and leaving the compartment, will, without showing the front of the paper to any person, show the official mark* on the back to the presiding officer, and then, in the presence of the presiding officer, put the paper into the ballot-box, and forthwith quit the polling station. If the voter inadvertently spoils a ballot paper, he can return it to the officer, who will, if satisfied of such inadvertence, give him another paper.

"'If the voter votes for more than —— candidates, or places any mark on the paper by which he may be afterward identified, his ballot-paper will be void and will not be counted.

* Election officers are required to keep the official mark secret, and a ballot cast without it is void.

"'If the voter takes a ballot-paper out of the polling-station, or deposits in the ballot-box any other paper than the one given him by the officer, he will be guilty of a misdemeanor, and be subject to imprisonment for any term, with or without hard labor.'"

Notwithstanding this admirable law, the elections, on account of the immense and corrupt use of money, often miscarried. A remedy was sought, and it was found in the Prevention of Corrupt Practices Act of 1883–84, an act (originated by Sir Henry James) that limits the sum of money that may be used for election purposes by a candidate or his agent; defines bribery, treating, and undue influence; forbids the use of liquor saloons for committee-room purposes, &c. The act had almost phenomenal results. In 1880, with about 3,000,000 voters in 419 constituencies, the election expenses exceeded £3,000,000. In 1886, with an increased vote, they were only £624,086. In 1880 there were 95 charges of corruption; in 1885 there were only 2; in 1886 only 1.

The principles of the two preceding laws should be adapted to all American elections. What has been done in Australia and England can and must be done in America. It is fortunate for the nation that we can profit by England's 600 years of experience in battling for pure elections. Pure elections are the pillars of liberty! *

* Every man has a right to barter or sell or exchange a commodity that belongs to him; but no man has a right to barter or exchange or sell a trust. If a vote is a trust, then it demands positive as well as negative action, for a trustee is responsible not only for what he has done but for what he has left undone. If a country appeals to her best citizens for assistance in maintaining good government, then it is the duty of those citizens to respond to that appeal before all other duties. * * * Viewed in the light not only of Christian morality, but of that common code of honor which governs the business of the civilized world, the buying of the votes of others, or the selling of one's own, or condoning or making light of, or taking any part, however indirect, in such transactions, is the kind of fraud which places the participator on a level with the lowest criminals in the land. No traitor to his country is so dangerous in his treason, for he teaches men to betray the holiest trust that their country has committed to them. No greater enemy to the community exists.—Rev. Dr. Henry Y. Satterlee.

It is the duty of every American to take an active personal interest in the welfare of his country, State, and city, and to see that the best citizens are elected to offices of honor and trust.—Cardinal Gibbons.

CHAPTER IV.

THE PATRONAGE AND MERIT SYSTEMS COMPARED.

The superiority of the Merit System shown by various Contrasts.—Picture of an extraordinary Officeseeking Drama (page 58).—How the President and Congressmen are harassed by Officeseekers.

SEC. 1754 of the U. S. Revised Statutes gives preference of appointment to office to *only* such properly qualified soldiers and sailors as have been discharged on account of "wounds or sickness incurred in the line of duty." The national civil service law rules are more favorable to the veterans than this, while the laws of New York and Massachusetts* give preference to *all* honorably discharged and properly qualified veterans.

Under the patronage system partisanship and interference at elections were the surest means of retaining an office. Under the merit system they are the surest means of losing it.

Under the patronage system officeholders were almost invariably appointed with regard to politics, and usually had to vote with their party or lose their offices. Under the merit system they are appointed without regard to politics, and can vote as they choose.

Under the patronage system officeholders, as a rule, cannot command that degree of public respect and con-

* The Massachusetts Civil Service Commissioners say (Third Annual Report, p. 22): "The veterans have triumphed by being able to show that they possess qualifications equal to or higher than their competitors. It has been a triumph in a fair field, with no favor, except that of preference in case of equality." This speaks well for the Massachusetts soldiers who were educated over a quarter of a century ago.

fidence that is essential to good government.* As the mode of obtaining office under the merit system is the reverse of that of the patronage system, officeholders appointed in accordance with its provisions ought to command both the respect and confidence of the people. They can have self-respect at least; and self-respect begets self-confidence as well as the respect and confidence of others.

Under the patronage system nearly all the chief officials of the government, outside of as well as in Washington, were forced to devote a large part of their time to the selection of subordinate officials, of whose qualifications, either theoretical or practical, they knew little or nothing. The merit system has not only stopped this waste of valuable time, but it is supplying the public service with officials of proved ability and fitness.

Under the patronage system an officeholder whose tenure depended on the mere caprice of an official superior, or perhaps a Ward or some other kind of politician, was little better than a slave. Besides, under such circumstances, he was constantly tempted to do wrong. Under the merit system the conditions of tenure are precisely the reverse, and are therefore conducive not only of a feeling of freedom, but of self-respect and manly independence.

Again, under the patronage system chief as well as subordinate public officials were assessed to raise money for partisan purposes, and as a natural consequence they

* A few years ago the Rev. Dr. Crosby said a person would as soon think of admitting the small-pox into his house as some New York City politicians. The only thing that can be said in extenuation of their offenses is that they are the victims of a corrupt system of politics, and that is saying a great deal. We should fight corrupt systems; not the victims of them. Like the physician, we should fight the disease; not the individual afflicted with it.

were sometimes tempted to do wrong in order to reimburse themselves. Under the merit system assessments for partisan purposes are not allowed.

Under the patronage system many honorable and meritorious persons were deterred from even attempting to enter the public service, because, as a rule, only politicians, or the subservient henchmen of politicians, applied for office. Under the merit system the rule is practically the reverse of this.

Under the patronage system many of the subordinate public officials were incompetent. Under the merit system applicants have to pass a competitive examination, and then prove their competency by trial by probation before appointment. Therefore all, or practically all, are competent.

Under the patronage system some officeholders did not know even the rudiments of the business of the offices they held. Some years ago a newspaper correspondent called at a public office in Washington to get some official information. The officeholder whom he chanced to meet could not give him a word of the information he desired, but he could and did, so the correspondent said, tell him precisely how the election was going in Ohio the next fall! Under the merit system the case ought to be about the reverse.

Under the patronage system officeholders whose tenures depended on the success of their own political party naturally favored members of it in preference to members of an opposite party, especially about election time. Favoritism is a form of injustice that cannot be wholly eradicated. It is an inherent if not necessary fault of humanity. A law may restrain a man, but it cannot change his nature. Yet in this case the merit system will have a beneficial effect at least, for there is one reason less for showing favoritism.

Under the patronage system the public service was injured by sweeping removals from office. Under the merit system no sweeping removals are made. The injury caused by sweeping removals is of course in proportion to the number of offices. As these are constantly multiplying, the injury, under the patronage system, would in the course of time not only be serious, but in case of the success of a party with corrupt leaders, it would sooner or later become a source of absolute danger. Under the merit system, with solid, tranquil, educated men guarding the thousands of minor but important offices, whose tenures depend solely on efficiency and fidelity, the country is comparatively safe, with or without the President. Further, even if the President should remove every chief official in the service, the public business would not be much injured, for the subordinate officials, owing to security of tenure, can transact all ordinary business as well during as before or after the change of the chief official.

In 1883 Governor Cleveland sent the name of ex-State Senator William H. Murtha of Brooklyn to the Senate of New York for confirmation as Emigration Commissioner. But as Mr. Murtha would not promise patronage in advance, the Senate refused to confirm him. Under the merit system this disgraceful action of the Senate would not occur, for under it there is no patronage to either promise or bestow. The execution of the then new law which was designed to correct abuses at Castle Garden, depended on Mr. Murtha's confirmation. Therefore a few minutes before the final adjournment of the Senate, Governor Cleveland sent a special message to that body urging Mr. Murtha's confirmation, in the course of which he said of the then management at Castle Garden : " The present management of this very important department is a scandal and a reproach to

civilization. Bare-faced robbery has been committed, and the poor immigrant who looks to the Institution for protection finds that his helplessness and forlorn condition afford but a readily seized opportunity for imposition and swindling." And yet the Senate of the great State of New York was so debauched by the vicious patronage system that it refused to confirm the man who would have stopped this imposition and swindling!

In 1877 the Jay Commission,* among other things, reported to President Hayes that the expense of collecting customs revenue in the United States was more than three times as large as in France, more than four times as large as in Germany, and nearly five times as large as in Great Britain. The revenue collections in this country were then made under the patronage system, while those of the foreign countries named were made under the merit system. Again, the Commission said, on the authority of the New York Chamber of Commerce, that in 1874 it cost the United States about $7,000,000 to collect the duties on imports of the value of $642,000.000, while in the same year it cost Great Britain only $5,000,000 to collect the duties on imports valued at $1,800,000,000!

Under the patronage system it was frequently difficult to remove incompetent and unworthy officials because of the "influence" of the politicians who vouched for them. "The same vicious, extraneous influence," says Mr. D. B. Eaton, "which puts them in office, keeps them there." Under the merit system they can be

* The Commission was composed of John Jay and Lawrence Turnure of New York and J. H. Robinson of the Department of Justice at Washington. Mr. Jay has since served as a New York State Civil Service Commissioner from 1883 till the fall of 1887, when he and his equally faithful colleague, Henry A. Richmond, were removed without fault of theirs, Mr. Augustus Schoonmaker having resigned in June, 1887.

readily removed, because there is no power behind the throne to protect them.*

Under the patronage system the President was now and then greatly embarrassed on account of some Congressmen reporting on some applications for office both favorably and unfavorably. Under the merit system Congressmen are not allowed to sign recommendations for office, except as to an applicant's character and residence. J. D. Cox says ("North American Review," 1871, p. 84): "It is no uncommon thing for one who has written a high eulogium on the character and acquirements of a place-hunter, to write a private note begging that his formal indorsement may not be regarded as of any weight, or to seek a private interview, in which he will state that the person is quite the reverse of the picture drawn of him in the testimonial filed." Sometimes, says Mr. Cox, the President and his Secretaries are confronted by both the officeseeker and his sponsor, while in the drawer of the table at which they sit, listening to the latter's mock praises, is the before mentioned private note contradicting every word uttered. It is not strange that Mr. Cox should say that Congressmen in those days (1869–70) often apologized for their importunity, nor that an effort was made to stop the disgraceful practice. Senator Lyman Trumbull introduced a bill in 1869 making it a misdemeanor for

* The Chairman: The common question among employés is, "Who is your influence?"

Mr. Graves: That is a standard phrase in the Department, "Who is your influence?" Where persons have very strong influence, they are apt, if any difficulty occurs in the Department, to threaten to go and get their "influence" and have the matter set right. Manliness and independence are destroyed by such a system. (Senate Report No. 576, for 1882, p. 132.)

Mr. Edward O. Graves at the time (1882) had had eighteen years' experience in the Treasury Department at Washington.

Congressmen to directly or indirectly recommend men for office, "except such recommendation be in writing, in response to a written request from the President or head of a Department asking information, or a Senator giving his advice and consent in the manner provided by the Constitution."

The unanimous report of the Senate Committee on Civil Service and Retrenchment,* made on May 15, 1882, by Senator Hawley, both corroborates and supplements Mr. Cox's statements. The following extracts speak for themselves (Senate Report No. 576, for 1882, pp. 2, 3): "It has come to pass that the work of paying political debts and discharging political obligations, of rewarding personal friends and punishing personal foes, is the first to confront each President on assuming the duties of his office. * * * Instead of the study of great questions of statesmanship, of broad and comprehensive administrative policy, either as it may concern this particular country at home, or the relations of this great nation to the other nations of the earth, he must devote himself to the petty business of weighing in the balance the political considerations that shall determine the claim of this friend or that political supporter to the possession of some office of profit or honor under him. * * * The executive mansion is besieged, if not sacked, and its corridors and chambers are crowded each day with the ever-changing but never-ending throng. Every Chief Magistrate, since the evil has grown to its present proportions, has cried out for de-

* The Committee was composed of members of both parties as follows: Joseph R. Hawley of Connecticut, Chairman; George H. Pendleton of Ohio, Henry L. Dawes of Massachusetts, John I. Mitchell of Pennsylvania, M. C. Butler of South Carolina, James D. Walker of Arkansas, John S. Williams of Kentucky, Edward H. Rollins of New Hampshire, and John P. Jones of Nevada.

liverance. Physical endurance even is taxed beyond its power. More than one President is believed to have lost his life from this cause. * * *

"The malign influence of political domination in appointments to office is wide-spread, and reaches out from the President himself to all possible means of approach to the appointing power. It poisons the very air we breathe. No Congressman in accord with the dispenser of power can wholly escape it. It is ever present. When he awakes in the morning it is at his door, and when he retires at night it haunts his chamber. It goes before him, it follows after him, and it meets him on the way. It levies contributions on all the relationships of a Congressman's life, summons kinship and friendship and interest to its aid, and imposes upon him a work which is never finished, and from which there is no release. Time is consumed, strength is exhausted, the mind is absorbed, and the vital forces of the legislator, mental as well as physical, are spent in the never-ending struggle for offices."

Representative John J. Kleiner of Indiana declined a renomination for Congress in 1886 because of the annoyance of officeseekers. As reported by many daily newspapers, he said: "It is no wonder to me that the House was charged with inefficiency last session. The Democratic members were kept so constantly engaged in looking after places for constituents that they had not time to give legislative subjects consideration. I know that I found it impossible to keep the run of current business. The greatest reform we could bring about would be to free Senators and Representatives of all responsibility as to the distribution of offices."

NOTE.—The above extracts from the Senate Committee's report appeared originally in a speech of Senator Dawes. (See Congressional Record, Jan. 24, 1882, p. 1082. Also for his civil service bill.)

CHAPTER V.

THE DANGER OF AN OFFICEHOLDERS' ARISTOCRACY.

The importance of the Subject.—The Cause of and Remedy for Aristocracies.—No danger in Life Tenures when based on Merit.—George William Curtis's opinion of them.—Insolence of Office.

It is feared by some that the civil service law system will create an officeholders' aristocracy. This is a matter of importance, and is not to be pooh-poohed, notwithstanding the fact that the same system has not only checked the English aristocracy's long monopoly of public office, but has, as before said, so purified the English civil service as to cause the annullment of the act of 1782, an act that disfranchised 40,000 customs, postoffice, and other officials for corrupt practices at elections. But the fear, it may as well be said first as last, so far as officeholders who draw low salaries are concerned, is certainly unfounded, notwithstanding officeholders are human, and are therefore liable to err. The idea of an aristocracy of public inspectors, accountants, weigners, clerks, &c., in this country, is almost ridiculous. It is as improbable perhaps as an aristocracy among soldiers, sailors, or private employés. Mr. E. L. Godkin says ("The Danger of an Officeholding Aristocracy," p. 13): "There is no country in which it would be so hard for an aristocracy of any kind to be built up as this, and probably no class seeking to make itself an aristocracy would, in the United States, have a smaller chance of success than a body composed of un-

ambitious, quiet-minded, unadventurous government officers, doing routine work on small salaries, and with but little chance or desire of ever passing from the employed into the employing class. One might nearly as well try to make an aristocracy out of the college professors or public school teachers." Mr. T. A. Jenckes says ("Congressional Globe," 1869, p. 521): "There is not enough in this aristocratical notion to bring out of it a new farce of 'High Life below Stairs.' It runs itself into the ground without comicality."

But the question, as before said, is a matter of importance, for, as Mr. Godkin says, "Nothing is more difficult to eradicate than the remembrance of insulting treatment at the hands of an aristocracy of any kind." It has therefore a serious as well as a semi-comic aspect. The law may sooner or later be applied to officeholders who draw high salaries. This would put a different face on the matter, for high salaries certainly have a tendency to create aristocracies. Aristocracies may have their uses in some countries, but we certainly have no use for them in this country. They are stern realities They are as undemocratic as they are undesirable. They are antagonistic to American ideas and institutions. Therefore it is our duty to study the causes of aristocracies, in order that we may guard against them. But we must learn to discriminate between the real and the apparent aristocrat. For example, learned men are often denounced as aristocrats because they do not associate with the unlearned. This is a mistake, for it is as natural for learned men to associate together as it is for the unlearned to do so. Learned men are often eminently democratic, as indeed are many rich men. It is the driving and selfish capitalist that is mostly to be feared. The idle and selfish capitalist is also bad, but is of course not so dangerous.

What is the real cause of aristocracies? Aristocracies are caused by great and broad distinctions between people. There are many causes for the distinctions between people, but the chief cause is the possession by some people of more money and property and consequently greater power than others. What but money causes the aristocracies of monarchical Europe? And what but money has planted a pale, sickly, mushroom-like variety of aristocracy in the uncongenial soil of republican America?*

* John W. Draper says ("History of the Intellectual Development of Europe," i, 252, 253): "An evil day is approaching when it becomes recognized in a community that the only standard of social distinction is wealth. That day was soon followed in Rome by its unavoidable consequence, a government founded upon two domestic elements, corruption and terrorism. No language can describe the state of that capital after the civil wars. The accumulation of power and wealth gave rise to a universal depravity. Law ceased to be of any value. A suitor must deposit a bribe before a trial could be had. The social fabric was a festering mass of rottenness. The people had become a populace; the aristocracy was demoniac; the city was a hell. No crime that the annals of human wickedness can show was left unperpetrated—remorseless murders; the betrayal of parents, husbands, wives, friends; poisoning reduced to a system; adultery degenerating into incests, and crimes that cannot be written. Women of the higher class were so lascivious, depraved, and dangerous that men could not be compelled to contract matrimony with them; marriage was displaced by concubinage; even virgins were guilty of inconceivable immodesties; great officers of state and ladies of the court, of promiscuous bathings and naked exhibitions. In the time of Cæsar it had become necessary for the government to interfere, and actually put a premium on marriage. * * * They (the women) actually reckoned the years, not by the consuls, but by the men they had lived with. To be childless, and therefore without the natural restraint of a family, was looked upon as a singular felicity. Plutarch correctly touched the point when he said that the Romans married to be heirs and not to have heirs. Of offenses that do not rise to the dignity of atrocity, but which excite our loathing, such as gluttony and the most debauched luxury, the annals

These propositions being admitted, then it follows that if ever we have an officeholders' aristocracy in this country, it will be caused chiefly by money. Therefore the subject of officeholders' salaries should receive careful attention.

There is too much difference in officeholders' salaries. Some are too high and some are too low.* Of course all cannot be put on an exact equality, for, among other things, an officeholder's expenses must be taken into ac-

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of the times furnish disgusting proofs. It was said, 'They eat that they may vomit, and vomit that they may eat.'"

Profesaor Draper quotes from Tacitus to prove that his statements are not exaggerated. The times described are before, during, and after the reign of Julius Cæsar.

It is related of Cæsar that on receiving a letter one day in the Senate a fellow-Senator accused him of receiving communications from the enemy. Cæsar passed the document over to the Senator. It was a lewd letter from the Senator's own sister, and was flung back with the remark, "Take it, you sot!"

Mr. A. J. Mundella, a member of Parliament, in a lecture, in 1870, said: "Until long after the passing of the first reform bill, offices were the reward of political services, and very frequently of political dishonor. * * * Mr. Bright characterized our civil and military services as a system of out-door relief for the aristocracy."

This is not complimentary to the English aristocracy; nor is it encouraging to would-be imitators of it here or elsewhere. It proves, if it proves anything, that while money may create an aristocracy, it cannot teach it how to use it. The words "political dishonor" may speak for themselves; but they are no more applicable to an aristocracy than to any other class of people who are cursed by the patronage system. According to James Russell Lowell, the famous speeches of the Prince of Wales are written for him by another man! (See "New York World," October 24, 1886, p. 9.)

NOTE.—Learning that Mr. Lowell was greatly displeased with the "World's" article, I wrote to him and asked if the above statement was true. I did not receive a reply from him. Therefore I take it for granted that Mr. Julian Hawthorne reported Mr. Lowell's words correctly.

* Franklin deprecated high salaries (v, 147); Webster also (iv, 183).

count. But it is wrong to give one man from $10,000 to $50,000 a year, and another, in his way equally capable, reliable, and meritorious, only $500. No man with a family can live comfortably in this country on $500 a year. The claim sometimes made that competent men cannot be induced to accept office unless the salary is high, is usually not true. There are plenty of competent men who would be glad to fill some offices for a third of the present salary, and they could live comfortably and honestly too. No officeholder should receive greater compensation than the average sum paid for similar services, where there are such, in private business, and he should be held to as strict an accountability as to service as is the private employé.* It is a high salary and little work that make the aristocrat. Extremely high salaries are conducive of extravagance, a feeling of superiority,† and sometimes of the assumption of unwarrantable privileges. Extremely low salaries are conducive chiefly of want and a feeling of inferiority. It is bad for the public service when some officials, because of high salaries, feel that they are autocrats instead of servants; but it

* Erastus Brooks, the veteran editor, who believed "in competitive test and standards of the persons appointed to all responsible places," writing on October 22, 1883, says (First Report New York State C. S. Com., p. 263): "Men in public service should receive no more favors, and no better pay, and serve neither more nor less time during the day or year, than is required of qualified and responsible men in the highest or comparative grades in commercial, mechanical, and general business life."

† Nothing has so much to do with a man's manners as the manners of the society in which he lives. * * * The English or German official gives himself airs and thinks himself an aristocrat because, as a matter of fact, his official superiors are aristocrats, and the government is administered in all the higher branches by an aristocracy. * * * In any country in which politics is largely managed by an aristocracy, the aristocratic view of life is sure to permeate the civil as well as the military service, be the terms long or short.—E. L. Godkin.

is worse when others, because of low salaries, feel that they are menials, and are sometimes tempted to act dishonestly.

The way to remedy as well as to prevent an aristocracy is to remove its cause. Therefore the way to prevent an officeholders' aristocracy is to pay no extremely high or extremely low salaries. There is probably no immediate danger, but the principle is none the less sound, for aristocracies will disappear exactly in proportion as the distinctions between people disappear. An equitable readjustment of salaries is what is wanted.*

The fear of an officeholders' aristocracy seems to be based chiefly on the life tenures of office that *may* occur under the civil service law system. But the fear, so far as life tenures, as such, are concerned, is certainly unfounded. Do not life tenures occur under all systems and in all governments? But, unless the officeholder is eminently qualified to fill his office, is it not seldom that they occur in this government? Therefore life tenures, when they are solely the reward of merit, are, on the whole, democratic instead of aristocratic. Such life tenures as these strengthen the government; and anything that strengthens republican government is democratic.

But life tenures, even under the civil service law system, will probably be the exception rather than the

* On January 24, 1817, on motion of Representative Samuel McKee of Kentucky, the following resolution was passed by the national House of Representatives:

Resolved, That the said Committee be instructed to inquire into the expediency of equalizing the pay and emoluments of the officers and persons employed in the civil, military, and naval departments of the government."

The New York State Civil Service Commission recognizes the need of "a judicious readjustment of salaries." (First Report, 1884, p. 4.)

rule. Changes will occur. The characteristic ambition of Americans to better their condition in life will alone cause many resignations. Some will resign because a few years of experience in many public offices qualifies an intelligent and ambitious man to discharge the duties of better paying stations in private life;* some will save their money and resign in order to establish themselves in private business; some will resign from sheer dislike of public life; some from other causes, and some will doubtless be removed.

George William Curtis says ("Civil Service Reform League Proceedings," 1884, pp. 11, 12): "The objection which is expressed in the cry of 'life tenure' and 'a privileged class' is one of the most ancient and familiar appeals of the spoils system to ignorance and prejudice. Whenever it has been proposed to recur to the constitutional principle and the early practice by treating the public clerk as the private clerk is treated, by ordaining that the public business shall be transacted upon business principles, and that filching politicians shall be forbidden to turn the public service to their private profit, we are told that a life tenure and a privileged class are odious and un-American, as if anything were so odious as a system tending to destroy the self-respect of public officers, or anything so really un-American as turning out an honest, efficient, and experienced agent because somebody else wants his place. There can indeed be no life tenure in an offensive sense so long as the power of removal is unchecked except by a sole consideration for justice and the public service; and the retention of a faithful, capable, and tried public servant confers no privilege which every such servant of every great corporation and of every great or small

* A fact practically the same as the above is shown in Chapter II, page 30.

business house, and of every well-ordered department of human industry, does not already enjoy. Of all the familiar tricks of the American demagogue none is more amusingly contemptible than the effort to show that a system which tends to promote a degrading loss of self-respect and a cringing dependence upon personal favor is peculiarly a manly and American system. It is a cry raised most vociferously by those who most despise and distrust the people, and as the sure and steady progress of reform plainly shows, it no more deceives and alarms an intelligent public opinion than the ridiculous assertion that civil service reform is a system which requires that a man shall pass a satisfactory examination in astronomy and the higher mathematics in order to be eligible to appointment as a night-watchman in the Custom House.* In the familiar story

* On page 16 Mr. Curtis says: "The essential point is not to find coal-heavers who can scan Virgil correctly, but coal-heavers who, being properly qualified for heaving coal, are their own masters and not the tools of politicians."

Mr. Curtis closes his address for 1885 in this lofty, hopeful, and patriotic strain: "Gentlemen, the stars in their courses fought against Sisera. But they fight for us. The desire of good government, of honest politics, of parties which shall be legitimate agencies of great policies; all the high instincts of good citizenship; all the lofty impulses of American patriotism, are the 'sweet influences' that favor reform. Every patriotic American has already seen their power,

"'And by the vision splendid
Is on his way attended.'

"Sir Philip Sidney wrote to his brother upon his travels, 'Whenever you hear of a good war, go to it.' That is the call which we have heard and obeyed. And a good war it has been, and is. Everywhere indeed there are signs of an alert and adroit hostility. They are the shots of outposts that foretell the battle. But everywhere also there are signs of the advance of the whole line, the inspiring harbingers of victory. Never was the prospect fairer. If the shadows still linger, the dawn is deepening,—the dawn that announces our sun of Austerlitz."

the young lawyer was reminded by the judge that the court might be supposed to know some law. The American demagogue is incessantly taught by the experience of this country that the American people may be supposed to have some common-sense."

Mr. Curtis again says (C. S. R. L. Proceedings, 1885, p. 22): "So long as the power of removal remains free, and while it is committed to agents appointed by officers whom the people elect, a life tenure in any un-American or undesirable sense is impossible."

The power of removal, for cause—and even without cause, if the chief officer is willing to take the risk of abusing his power—is as free under the civil service law system as it is in private business.

The view taken by the aristocracy of England, in 1855, of the probable effect of the British civil service law was the opposite of that taken now by some Americans as to the probable effect of the American civil service law. The following extract from the Third Annual Report of the United States Civil Service Commission (p. 31) speaks for itself: "The aristocratic classes, with many honorable exceptions, opposed the introduction of the merit system on the same ground that they opposed popular education at the public expense; that is, that both would weaken their means of controlling the government, at the same time that they would give greater opportunities and influence to the sons and daughters of the common people.

"In a volume of official papers issued by the British government, in 1855, when the subject of introducing examinations was under consideration, it is declared that 'The encouragement given to education would no doubt be great, but it will all be in favor of the *lower classes* of society and not of the higher. * * * Appointments now conferred on young men of aristocratic

connection will fall into the hands of a much lower grade in society. * * * Such a measure will exercise the happiest influence on the education of the *lower classes* throughout England, acting by the surest of all motives, the desire a man has of bettering himself in life.' The volume shows that the examinations were opposed by the privileged classes because they foresaw that such would be the effects."

It is an interesting question whether the civil service law system will or will not cause an increase in what Shakespeare calls "insolence of office," a phase of public life that is a kind of first cousin to an officeholders' aristocracy, with this distinction, that insolence is more the result of a personal than an official defect of character, and is therefore not so easily cured. "Nothing is older in story," says Mr. Godkin, "than the 'insolence of office.' We can go back to no time, in the annals of the Old World, when the man 'dressed in a little brief authority' was not an object of popular odium." This seems to settle the question, if such a question can be settled, in favor of the civil service law system, for is it not reasonable that the man "dressed in a little brief authority," which is a good description of the usually precarious tenure of office under the patronage system, is more likely to be insolent than the man who holds his office on condition of good behavior and efficient and faithful service? Insolence is not *good behavior.* As before said, the defect is not easily cured, but the remedy for *habitual* insolence of office is removal. As a rule men of merit are not insolent. It is contrary to their nature.

CHAPTER VI.

THE PATRONAGE SYSTEM.

Its practicability only Apparent.—Jackson versus Jackson.—Probable causes of his Radical Change.—Marcy's famous Speech and humorous Letter to Buchanan.—Lincoln versus Lincoln.—His overweening Ambition.—The Spoils Doctrine undemocratic and ruinous.—Appalling Corruption at Washington after the Civil War.—The Civil Service Law a Rock to build upon.

THE patronage system of distributing public offices was first practiced in this country in the State of New York.* But as President Jackson was the first to prac-

*G. W. Curtis says that in 1801 the spoils system was as much in vogue in New York as it ever has been in the country since; that under the old Council of Appointment a man could not be an auctioneer unless he was on the right side in politics; that one of the amusing incidents in the political history of New York is that the charter of the Manhattan Bank (one of the chief New York City banks), was procured by Aaron Burr in what was really a charter for a water company, the trick being ventured to hide the fact that the applicants were of the wrong side in politics. (Senate Rept. No. 576 (1882) pp. 153, 154.)

The Council "became so intolerable that in the Convention of 1821 not one voice was raised to defend it. The vote to abolish it was unanimous." (F. W. Whitridge, in "Political Science Quarterly," iv, 285.)

Mr. Dorman B. Eaton says: "Unfortunately for the politics of New York, one of the first of her great politicians and officers was the most adroit and unscrupulous political manipulators this country has produced. Aaron Burr was our first partisan despot. * * * Martin Van Buren, probably without knowing the true character of Burr, early became his admirer and follower. 'He learned his tactics from Aaron Burr.' He was so adroit in applying them to his own use, that as early as 1808 he got the office of Surrogate of Columbia county as the price of his support of Tompkins for Governor. This perhaps is the earliest

tice it nationally, the history of the beginning of the system naturally pertains chiefly to him and his administration.

The system, as explained by its advocates, and when abstractly considered, is apparently reasonable and practicable. For example, its advocates say that when A is President, he should have none but his own political

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instance in our politics of an office, especially a judicial office, being pledged and delivered for political support." ("Spoils System," &c., pp. 4, 6.)

"His (Jackson's) election was notoriously the work of Martin Van Buren, inspired by Aaron Burr, and with his inauguration was initiated a sordidly selfish political system entirely at variance with the broad views of Washington and of Hamilton." ("Atlantic Monthly," April, 1880, p. 537.)

"Among the maxims of Colonel Burr for the guidance of politicians, one of the most prominent was that the people at elections were to be managed by the same rules of discipline as the soldiers of an army; that a few leaders were to think for the masses, and that the latter were to obey implicitly their leaders, and to move only at the word of command. He had therefore great confidence in the machinery of party, and that system of regular nominations in American politics of which he may perhaps be considered one of the founders. Educated as a military man, and imbibing his early views with regard to governing others in the camp, it is not surprising that Colonel Burr should have applied the rules of military life to politics." ("Statesman's Manual," ii, 1139.)

Representative John Lawrence of New York appears to have antedated Aaron Burr several years in the advocacy of the patronage system. In the great debate in the first Congress (1789) on the power of removal he said ("Gales & Seaton's Debates," vol. i, pt. i, p. 504): "It has been said that if it (the power of removal) is lodged here (in the President), it will be subject to abuse; that there may be a change of officers, and a complete revolution throughout the whole Executive Department on the election of every new President. I admit this may be the case, and I contend that it should be the case, if the President thinks it necessary I contend that every President ought to have those men about him in whom he can place the most confidence, provided the Senate approve his choice."

friends in the subordinate as well as the chief offices at his disposal; for in what other way, they ask, can he be responsible for the execution of the laws? There is besides, they say, another advantage, for his political friends have a double incentive to be faithful and efficient—their own good names as well as that of the party in power. But this reasoning is fallacious. First, because the system is diametrically opposed to business principles; second, because long and sad experience has proved, in this as well as in other nations, that it leads to corruption.

Again, an equitable division of patronage between political parties, as was favored by President Jefferson and also Governor De Witt Clinton of New York, is politically fair, and might lessen the evils of the wholly partisan system. But, like the preceding proposition, it is not in accordance with sound business principles.

General Jackson's preaching and President Jackson's practicing were very different. General Jackson, writing from Washington, in 1804, said (Parton's "Life of Jackson," i, 237): "Of all characters my feelings despise a man capable of cringing to power for a benefit or office. Such characters are * * * badly calculated for a representative system. * * * Merit alone should lead to preferment." The General desired to be Governor of Louisiana Territory, but he doubted the propriety of calling on the President in the capacity of an officeseeker. "Before I would violate my ideas of propriety," he said, "I would yield up any office in the government." Writing to President-elect Monroe, in 1816, he said (ii, 360): "Everything depends on the selection of your ministry. In every selection party and party feeling should be avoided. Now is the time to exterminate the *monster* called party spirit. * * * The Chief Magistrate of a great and powerful nation

should never indulge in party feeling." In 1829 President Jackson practiced almost the reverse of what he preached in 1804 and 1816. His most notable departure was the removal of hundreds of faithful civil service officials, and for purely partisan reasons.

What caused this change? There may have been many causes, but the chief cause was probably the following. During the campaign of 1828 some newspapers abused the General's wife, and even assailed the memory of his dead mother.* This was bad enough, but the death of Mrs. Jackson, which was accelerated if not caused by campaign abuse, was too much for human nature. General Jackson had years before killed Charles Dickinson in a duel on account of trouble that probably originated in the latter's alleged abuse of Mrs. Jackson. He could not now fight his enemies personally, but he could and did fight them politically;† and under such circumstances it was as natural for him to fight them as it was for him to fight Dickinson or the British at New Orleans.

Are not these facts alone sufficient to account for the

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* Mrs. Jackson, whom Major Lewis describes as "that good woman," once, in 1828, found her husband in tears. Pointing to a newspaper paragraph, he said: "Myself I can defend, you I can defend, but now they have assailed even the memory of my mother." (iii, 141.)

Mr. Parton, speaking of Mrs. Jackson, says (iii, 154): "Perhaps, if the truth were known, it would be found that she is not the only female victim of our indecent party contentions."

† The "Atlantic Monthly," in speaking of the life and death of Mrs. Jackson, says (April, 1880, pp. 537, 538): "Her sorrow-stricken husband came to Washington with a stern determination to punish those who had maligned her during the preceding campaign; and those who eulogized her always found favor with him."

The Washington "Telegraph" said: "We know not what line of policy General Jackson will adopt. We take it for granted, however, that he will reward his friends and punish his enemies."

change? In fact does not the General's high character preclude almost any other explanation of it? But the General's own words are the most convincing. For example, shortly after his inauguration he told a prominent and faithful official, Colonel Thomas L. McKenney, Superintendent of Indian Affairs, that he was charged with being "one of the principal promoters of that vile paper, *We the People*, in which my wife Rachel was so shamefully abused." (iii, 216.)

Thus did a wrong beget a wrong. Thus did a private curse become a public curse. In a word, thus did like beget like. Mr. Parton says President Jackson "was a sick, unhappy, and perplexed old man, * * * always mourning for his dead wife."

President Jackson's course, which was at war with that of all his predecessors in office, and even, as has been shown, with his own sentiments as expressed in 1804 and 1816, was condemned by many of his contemporaries, as is shown by extracts from their works in this and the two succeeding chapters.

Major William B. Lewis, the man, says Mr. Parton (iii, 224), who contributed the most to General Jackson's election to the presidency, and his most intimate and constant companion, wrote to him as follows: "In relation to the principle of rotation * * * I hold it to be fraught with the greatest mischief to the country. * * * Whenever the impression shall become general that the government is only valuable on account of its offices, the great and paramount interests of the country will be lost sight of, and the government itself ultimately destroyed."

Another material cause of President Jackson's change of policy—namely, the influence over him of Mr. Martin Van Buren—is best described in the words of members of the United States Senate, who were considering, in

1832, the confirmation of the latter gentleman as Minister to England.

Senator Clay of Kentucky said ("Gales & Seaton's Debates in Congress," 1831–32, vol. viii, pt. i, p. 1324): "I have another objection to this nomination. I believe * * * that to this gentleman is principally to be ascribed the introduction of the odious system of proscription for the exercise of the elective franchise. I understand that it is the system on which the party in his own State, of which he is the reputed head, constantly acts. He was among the first of the Secretaries to apply that system to the dismission of clerks in his department, known to me to be highly meritorious, and among them one who is now a representative in the other House. It is a detestable system, drawn from the worst periods of the Roman republic, and if it were to be perpetuated, * * * our government would finally end in a despotism as inexorable as that at Constantinople."*

Senator Samuel A. Foot of Connecticut went even further in his criticisms of Mr. Van Buren than Senator Clay. He said (Same Debates, p. 1328): "In my opinion there is not a Senator on this floor, or any other careful observer, who has noticed the proceedings of this administration from its commencement, who is not fully convinced that there had been 'behind the throne a power greater than the throne itself,' which has di-

* Mr. Clay, in a speech delivered on June 27, 1840, relates the following extraordinary case of court-martial ("Speeches," ii, 203): "Two officers of the army of the United States have been put upon their solemn trial, on the charge of prejudicing the Democratic party by making purchases for the supply of the army from members of the Whig party! * * * And this trial was commenced at the instance of a Committee of a Democratic Convention, and conducted and prosecuted by them."

The trial took place at Baltimore, where the Convention met.

rected most of its movements. I will not say there is legal evidence sufficient to convict a man before a court of justice ; but there is enough to produce conviction in my mind, and I sincerely believe that General Jackson came to this place fully determined to remove no man from office but for good cause of removal. I am fully convinced that the whole 'system of proscription' owes its existence to Martin Van Buren ! that the dissolution of the Cabinet was effected by his management, and for his benefit ! and that the hand of the late Secretary of State may be traced distinctly in another affair, which has produced an alienation between the first and second officers of the government, and also * * * for the great abuse of the patronage of the government !"

Senator George Poindexter of Mississippi said, among other things, that Mr. Van Buren, "whose whole course was marked by a systematic tissue of dark and studied intrigue," had "seized on circumstances which pre-existed his induction into office, novel in their character in this country, but familiar at the court of Louis the Fifteenth, in France, and of Charles the Second of England, by means of which he contrived to 'ride upon the whirlwind and direct the storm,' and to render the credulous* and confiding chief, whose weakness he flattered and whose prejudices he nourished, subservient to all his purposes, personal and political. * * * Possessed, as he was, of the unlimited confidence of General Jackson, he very soon found free access to his ear, and, by appropriate advances, led him into excesses and errors

* David Crockett says ("Life of Martin Van Buren," p. 12): "For a man that has as much resolution and fight in him as General Jackson, there never was one that was so easy to be duped."

Colonel Crockett served under General Jackson during the Creek Indian war of 1813. His "Life of Martin Van Buren" is unique if not unprejudiced and exhaustive.

fatal to the tranquillity of the country, without affording the slightest evidence that he in any manner participated in producing the results which he anxiously desired to accomplish. The proscriptive policy, pushed, as it was, to extremities which the public interest did not seem to require, and far beyond the practice of any other Chief Magistrate, has been universally attributed to the advice and influence of Mr. Van Buren. This system, combined with the whole patronage of government, was, as far as practicable, placed at his discretion, to smooth the way to the ulterior object of his ambition." (pp. 1340, 1341, 1342.)

Senator John Forsyth of Georgia, who favored Mr. Van Buren's confirmation, in reply to Mr. Poindexter, said (p. 1346): "What, sir, the most artful man in the world proclaim to a paltry editor that he acted in the manner indicated to escape the storm consequent on the dissolution of the Cabinet!" And yet on the very next page he says: "He is called an artful man—a giant of artifice—a wily magician. From whom does he receive these opprobrious names? From open enemies and pretended friends."

Senator Stephen D. Miller of South Carolina said (pp. 1372, 1373): "Sir, one of the most decided objections I have to the confirmation of this appointment is that the patronage of the government was exercised with a view to make this nominee, at the end of the present incumbent's term of office, the President. I believe this power was exercised to a criminal extent. * * * I do not think the power to turn out one man and put in another, as a mere arbitrary exercise of executive authority, does exist. * * * I think it a violation of the Constitution. * * * It is the essence of tyranny."

Senator Robert Y. Hayne of South Carolina said (p. 1381) he had no doubt that Mr. Van Buren had ad-

vanced "himself at the expense of all who were supposed to stand in his way; and, what is worse, at the expense of the success of the administration, and at the imminent hazard to the best interests of the country." He further said that he believed "that Mr. Van Buren, while Secretary of State, used the influence derived from his high office for the purpose of controlling injuriously the domestic and social relations of this community;* and that his conduct was in other respects inconsistent with the dignity of his station and the character of the country."

Representative Henry A. Wise of Virginia, speaking, in 1836, of Mr. Van Buren, said (Same Debates, vol. xiii, pt. i, p. 1066) that he held him "responsible for most mischief that has been done, and most that is now doing," and that he was "elected by executive patronage, corruption, and dictation."

Mr. James Parton, speaking of Martin Van Buren, says ("Life of Jackson," iii, 120): "How are we to know anything about a man who was supposed to excel all men in concealing his motives and his movements?"

Again (p. 126) Mr. Parton says that President Van Buren, speaking of official patronage, once said: "I prefer an office which has no patronage. When I give a man an office, I offend his disappointed competitors and their friends, and make enemies of the man I remove and his friends. Nor am I certain of gaining a friend in the man I appoint, for in all probability he expected something better."

I wrote to Mr. Parton and asked him where he got

* "It is odd enough," wrote Daniel Webster to a personal friend, "that the consequence of this dispute in the sociable and fashionable world is producing great political effects, and may very probably determine who shall be successor to the present Chief Magistrate." ("Atlantic Monthly," April, 1880.

his information concerning Mr. Van Buren's opinion of the drawbacks of official patronage. With his permission, I give his reply in full.

NEWBURYPORT, Mass., August 24, 1887.

Dear Sir: Martin Van Buren, I think, was a far more respectable human being than many of his more gifted contemporaries, such as Webster, Clay, Calhoun, and others. The best and fairest view of him is given by himself in his work entitled "Inquiry into the Origin and Course of Political Parties in the United States," N. Y., 1867. He was a good democrat, but fell upon a difficult time, inherited a developing system, and had very strict personal limitations. I believe it was the late Coventry Waddell (the "X. Clark" of Chap. xix, vol. iii, of my Jackson), who told me Van Buren's remarks on appointments to office.

All the men who surrounded Jackson in 1829 knew very well that Jackson alone had the courage and hardihood to introduce the system of turning out political opponents from minor offices. It was *his* fell work, and his alone. All was done to wreak revenge upon Clay for wrongs purely imaginary. If he turned out a postmaster in Kentucky, he thought he was hitting Henry Clay.

I hope you will put all your force into the work in hand. If the people of free countries cannot learn to be good employers of labor, freedom is not for man.

Very truly yours,

JAMES PARTON.

Mr. Parton is a stanch opponent of the patronage system, and he devotes much space in his "Life of Jackson" to a scathing denunciation and exposure of it. He attributes its origin to Aaron Burr, and says that Martin Van Buren "learned his tactics from Burr."

His portrayal of what he calls the "Burrian Code," is an excellent description of the patronage system in its worst form.

It was during the debate on Mr. Van Buren's confirmation that Senator William L. Marcy of New York, in reply to Senator Clay, made his famous spoils doctrine speech, the gist of which is as follows (G. & S.'s Debates, vol. viii, pt. i, p. 1326):

"It may be, sir, that the politicians of the United States are not so fastidious as some gentlemen are as to disclosing the principles on which they act. They boldly preach what they practice. When they are contending for victory, they avow their intention of enjoying the fruits of it. If they are defeated, they expect to retire from office. If they are successful, they claim, as a matter of right, the advantages of success. They see nothing wrong in the rule that to the victor belong the spoils of the enemy."*

Mr. Parton ("Life of Jackson," iii, 377) says that Senator Marcy, when writing out his speech, said he would willingly recall the last quoted words. President Madison says (iv, 357): "The first, I believe, who proclaimed the right, is now the most vehement in branding the practice." I wrote to Mr. Parton and asked

* Mr. Marcy, whose speech was mostly in reply to Mr. Clay, said that Mr. Clay's "own political friends" had practiced the patronage system in Kentucky. Mr. Clay said (p. 1356): "It is not practiced in Kentucky by the State government when in the hands of the opposition to this administration. Very lately Governor Metcalfe has appointed to one of the three highest judicial stations in the State a supporter of this administration. * * * The Governor also renewed the appointment, or commissioned several gentlemen opposed to him in politics, as State attorneys. And recently the Legislature appointed a President of one of the banks from the ranks of one of the friends of this administration, and several other officers."

him what he thought of Mr. Madison's statement. In a letter dated May 4, 1886, he said: "Mr. Marcy, as I understood, did not renounce the doctrine of the spoils, but merely regretted the blunt, impolitic words in which he expressed the same. He was simply too honest a man to alter or recall his words. My impression is that he lived and died a spoilsman."

The word spoils, if not military, is frequently used by military men. Therefore its use by the soldier-statesman Marcy was perhaps only the result of habit. Here is an example of his use of military figures of speech (Curtis's "Life of James Buchanan," ii, 36): "This little battery has kept up a brisk fire for you. * * * For want of experience you do not know the potency of such an adversary. An enemy in the camp is more dangerous than one outside of it." Here are three military figures of speech in almost as many lines.

"This little battery," which was "an enemy in the camp," was *Mrs. Marcy*, and the gentleman in whose behalf she "kept up a brisk fire," and to whom Mr. Marcy was writing, was James Buchanan, a *bachelor*, and *Mr. Marcy's* rival for the then coming Democratic presidential nomination of 1852. The letter is as humorous as it is kind and noble.

In the political lottery of 1852–53 Governor Marcy drew the prize of Secretary of State, and it is noteworthy that he told Mr. Buchanan some months after accepting the office that, on account of officeseekers and Cabinet Councils, "he had not been able to devote one single hour together to his proper official duties." (ii, 81.) So his change of mind, if it came at all, must have come late in life.

Senator Marcy was not the first person to distinguish himself during the Jackson administration by making pointed and figurative spoils doctrine speeches. Gover-

nor John Reynolds of Illinois relates the following by William Kinney of Illinois ("My Own Times," p. 185):

"Gov. Kinney had been to the city of Washington at the inauguration of Gen. Jackson, and had considerable agency at the Federal city in the proscription visited on the Whigs of Illinois. It was said he remarked that the Whigs should be whipped out of office like dogs out of a meat-house."*

On page 199 Gov. Reynolds says (inaugural address):

"My official care and patronage shall not be exclusively bestowed upon a few men, and on a particular section of the State, and proscribe the balance. Proscription for opinion's sake is, in my opinion, the worst enemy to a republic. It is the birthright of every freeman to express his political sentiments *frankly* and *freely* at the polls of an election, or elsewhere, without the hope of reward or the fear of punishment."

President Lincoln, like President Jackson, preached one thing and practiced another. His administration, so far as political parties are concerned, is therefore parallel with and an offset to President Jackson's. Writing to Congressman John T. Stuart of Illinois, on Dec. 17, 1840, he said (Century Magazine, Jan., 1887, p. 377):

"This affair of appointments to office is very annoying—more so to you than to me doubtless. I am, as you know, opposed to removals to make places for our friends."

Lincoln, however, unlike Jackson, removed practically all of the officeholders. Of course he was justified in removing all who were disloyal. With these exceptions, he seems to have regretted his course and to have had his early convictions confirmed by experience. In 1865, pointing toward a group of officeseekers, he said: "Behold this spectacle! We have conquered the rebellion; but here is a greater danger to the country

* As Gov. Reynolds merely says "Gov. Kinney," I wrote to the Chicago Historical Society and asked when Mr. Kinney was Governor of Illinois. In reply Secretary Albert D. Hager said: "'Governor Kinney of Illinois' is a myth. On Dec. 6, 1826, at the time Ninian Edwards was inaugurated Governor of Illinois, Wm. Kinney of St. Clair county was installed Lieutenant Governor, and held the position till Dec. 9, 1830."

than was the rebellion." Senator Sumner vouched for these words to Senator Schurz. Again, shortly before the fall of Richmond, Lincoln left Washington for City Point, Va., partly, he said, to be near the important military operations then in progress and partly to get away from the officeseekers. To the then Gen. Schurz, speaking of officeseeking, he said: "I am afraid *that* thing is going to ruin republican government." And again, Ward H. Lamon says Lincoln said that if ever the government was overthrown, it would be caused by "the voracious desire of office—this wriggle to live without toil, from which I am not free myself."*

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*With Lincoln officeseeking was a disease. Lamon says ("Life of Lincoln," pp. 237, 481, 483): "There is no instance where an important office seemed to be within his reach and he did not try to get it. * * * Notwithstanding his overweening ambition, he had not a particle of sympathy with the great mass of his fellow-citizens who were engaged in similar scrambles for place. When a candidate himself, he thought the whole canvass ought to be conducted with reference to his success. He would say to a man, 'Your continuance in the field injures me,' and be quite sure he had given a perfect reason for his withdrawal. He did nothing out of mere gratitude, and forgot the devotion of his warmest partisans as soon as the occasion for their services was past. What they did for him was quietly appropriated as the reward of superior merit, calling for no return in kind. * * * It was seldom that he praised anybody; and when he did, it was not a rival or an equal in the struggle for popularity and power. No one knew better how to 'damn with faint praise,' or to divide the glory of another by being the first and frankest to acknowledge it. His encomiums were sometimes mere stratagems to catch the applause he pretended to bestow. * * * Fully alive to the fact that no qualities of a public man are so charming to the people as simplicity and candor, he made simplicity and candor the mask of deep feelings carefully concealed and subtle plans studiously vailed from all eyes but one."

Leonard Swett says ("Herndon's Lincoln," iii, 533, 534, 537): "In dealing with men he was a trimmer, and such a trimmer the world has never seen. Halifax, who was great in his day as a trimmer, would blush by the side of Lincoln; yet Lincoln never trimmed in principles;

A few more words as to the patronage system.

The doctrine that to the victors belong the spoils, which, as before said, was first practiced nationally in this country by President Jackson, has probably had its day. If it has, it is well. Like the doctrine itself, spoils is a bad word. It is synonymous with robbery, pillage, destruction! It is suggestive of the days of

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it was only in his conduct with men. He used the patronage of his office to feed the hunger of various factions. * * * He used every force to the best possible advantage. He never wasted anything, and would always give more to his enemies than he would to his friends; and the reason was because he never had anything to spare, and in the close calculation of attaching the factions to him, he counted upon the abstract affection of his friends as an element to be offset against some gift with which he must appease his enemies. Hence there was always some truth in the charge of his friends that he failed to reciprocate their devotion with his favors. * * * Adhesion was what he wanted; if he got it gratuitously, he never wasted his substance paying for it.

"One great public mistake of his character, as generally received and acquiesced in, is that he is considered by the people of this country as a frank, guileless, and unsophisticated man. There never was a greater mistake. Beneath a smooth surface of candor and apparent declaration of all his thoughts and feelings, he exercised the most exalted tact and the wisest discrimination. He handled and moved men remotely as we do pieces upon a chess-board. He retained through life all the friends he ever had, and he made the wrath of his enemies to praise him. This was not by cunning and intrigue, in the low acceptation of the term, but by far-seeing reason and discernment. He always told enough only of his plans and purposes to induce the belief that he had communicated all; yet he reserved enough to have communicated nothing. He told all that was unimportant with a gushing frankness; yet no man ever kept his real purposes closer, or penetrated the future further with his deep designs."

Lyman Trumbull, in a letter of Oct. 1, 1890, says: "I entirely agree in their (Lamon and Swett's) statements as to the ambition, shrewdness, cunning, and reticence of Mr. Lincoln; but I am not prepared to say that he was the trimmer Mr. Swett describes him to have been." * * *

David Davis says that Lincoln was the most reticent, secretive man he ever knew. Herndon describes his ambition as overflowing, restless. He says Swett's letter makes the Lincoln historical picture more life-like. All of the five men were Lincoln's personal as well as political friends.

Nero. It is akin to barbarism, not to civilization. It is adapted to war and a description of war times, not to peace. If Americans, when talking about public offices, would stop to think of the exact meaning of this word, it would no longer mar our political vocabulary. In private life what chance of success would a man have who, when he applied for employment, talked about the spoils of private business? Of course he would have none. Then why should such a man have a chance in public life? Is not the spoils system as unreasonable, reprehensible, and ruinous in public as in private business? If it is, then is it not undemocratic? And being undemocratic, does it not logically follow that it is un-American? If a system is wrong, is not the true remedy the application of a precisely opposite system? Is not the civil service law system the precise opposite of the patronage system? If it is, then is it not both democratic and American? But some people say it is neither. Can this be possible? If Washington, the Adamses, Jefferson, Madison, Monroe, Franklin, Jay, Hamilton, Gallatin, Quincy, and the many other statesmen and patriots whose words of wisdom are quoted in this volume, are not specimen democrats and Americans, who are?

We now come to a period in the history of the government when the patronage system reached its natural and legitimate conclusion—a spoils pandemonium. It began under Lincoln and reached its hight apparently under Johnson. Johnson, though hampered by the Senate,* made, directly and indirectly, many removals.

* Lyman Trumbull says: "Johnson did not have it in his power to make removals. When he attempted it, his nominations were almost invariably rejected by the Senate, unless the nominee was the favorite and had secured in advance the assurance of support of Senators who had sought to convict the President of high crimes and misdemeanors. Hence most of Johnson's appointments were really dictated by his political adversaries." Compare with Cox's remarks, pages 115, 116.

But some of his appointments were caused by resignations instead of removals. The resignations were caused by dissatisfaction with President Johnson's change of policy; for after his war passions cooled down, he chose to stand, as it were, almost between rather than on the side of either the Republican or Democratic party. And thus was this iron-willed and tried Union man enabled, despite the intense turmoil and strife of the times, and despite his naturally combative nature, to pursue a comparatively conservative course till the passions of the people had also cooled down. Personally Andrew Johnson was incorruptible; but the corruption among officeseekers during his administration, and for some years afterward, caused as much perhaps by the demoralization of the unparalleled civil war that had just closed as by the then run-mad patronage system, and aggravated by the complications of reconstruction and the President's quarrel with and impeachment by Congress, was simply appalling. Much documentary evidence might be cited, but the testimony of one person will suffice. Jacob D. Cox, a distinguished Union soldier, who was a State Senator in Ohio before the war, Governor of Ohio after the war (1866), and Secretary of the Interior in 1869, says ("North American Review," 1871, pp. 87, 88):

"During Mr. Johnson's administration * * * a condition of things existed which rivals the most corrupt era that can be found in the history of any nation. Men were known to offer $5,000 for the influence which might secure an appointment to a gauger's situation in the revenue service, where $1,500 was the limit of the pay that could be honestly earned, and when it was morally certain that the advent of a new administration would terminate the employment within a year. This is

simply a type of similar transactions extending through many grades of the public service."

Speaking of the duplicity used to obtain "an appointment from one end of the Avenue and a confirmation from the other," Mr. Cox says (p. 87):

"In many instances two wholly separate sets of recommendations were procured, one proving that the applicant was a faithful supporter of the President, the other proving him an utter despiser of the presidential policy. More than this, it may be easily proven that one or the other party was often cognizant of the fraud perpetrated, and the partisans of either side congratulated each other that an appointment or a confirmation had been procured by which the other party was completely cheated. * * * It was a game of 'diamond cut diamond,' in which the two parties were using all the resources and refinements of intrigue to get the start of the other in the control of the offices."*

The spoils doctrine has done more perhaps to corrupt

* Benjamin Franklin, addressing the Constitutional Convention of 1787 on the subject of salaries, seems to have had a prevision of the scenes above described. He said ("Franklin's Works," v, 145): "Sir, there are two passions which have a powerful influence in the affairs of men. These are 'ambition' and 'avarice'—the love of power and the love of money. Separately each of these has great force in prompting men to action; but when united in view of the same object, they have in many minds the most violent effects. Place before such men a post of 'honor,' that shall at the same time be a place of 'profit,' and they will move heaven and earth to obtain it. * * * And of what kind are the men who will strive for this profitable pre-eminence? It will not be the wise and moderate, the lovers of peace and good order, the men fittest for the trust. It will be the bold and the violent, the men of strong passions and indefatigable activity in their selfish pursuits. These will thrust themselves into your government and be your rulers."

American politics than all other causes combined. Its evils, which are reflected in the darkest pages of the world's history, are insidious. This fact has just been well illustrated, for what did the general public know, at the time, of the corruption described by Mr. Cox? Again, who but the principals and their accomplices would know of the corruption of New York's fugitive (1884) Aldermen, if the facts had not been published? Further, spoils and insidious spoils schemes are not confined to public business. Many are private, or semi-private; such, for example, as the numerous "rings" and monopolies throughout the country, the corruption of many of which has been exposed by newspapers during the past twenty-five years.

But, as before said, this bad doctrine, which for full fifty years hung over the nation like the black clouds that precede as well as attend the coming storm, but no blacker than the picture of partisan patronage just portrayed, has probably had its day. And again, as before said, if it has, it is well, for fifty years more of such corruption would imperil the safety of the nation.* Fortunately a welcome, timely, and salutary change has come. The beclouded skies are slowly but surely clearing, and the outlook is hopeful. A great political storm is subsiding and is being succeeded by a political sunshine that not only makes the dangers through which we have passed plainer, but is teaching us how to avoid them in the future.

Our course is plain. The civil service law, in order to make it a complete success, must be enforced and perfected and its scope gradually increased. Its enforcement will naturally lead to its perfection, and its

* Doubts may well be entertained whether our government could survive the strain of a continuance of this system.—GROVER CLEVELAND.

perfection to its increase of scope. As before said, the law has made a good beginning. It must also make a good ending. The increase of its usefulness must not cease till it has utterly destroyed the political dragon that has done so much to degrade American politics. Safety itself demands that, no matter what the circumstances may be, a repetition of the scenes described by Mr. Cox shall be rendered impossible. This, notwithstanding it requires the practical abolition of the patronage system, is not as difficult as it seems. When business men and business men only, without regard to politics, fill all non-political public offices, the patronage system will be practically dead, and the complete reform of the civil service will be a question of only a few years.

The civil service law promises to gradually accomplish this result. It will then have been carried to its legitimate conclusion. And it is well. There is something higher, better, and more important for Americans than ordinary officeholding.* The time and talent heretofore spent in striving for office can hereafter be more usefully devoted to studying the exact nature of public grievances and to originating corrective measures for them. This is noble, patriotic, and useful work, for it subserves the interests of the people as a body. Americans who are not already qualified, should qualify themselves for this work In short, they should imitate the statesmen whose wise words and examples are given in the succeeding as well as other chapters of this volume.

* The support which has been given to the present administration in its efforts to preserve and advance this reform * * * should confirm our belief that there is a sentiment among the people better than a desire to hold office, and a patriotic impulse upon which may safely rest the integrity of our institutions and the strength and perpetuity of our government.—GROVER CLEVELAND.

CHAPTER VII.

LEADING STATESMEN'S PRINCIPLES.

The Merit System both Preached and Practiced by the six first Presidents (forty years).—Powerful blows at the Patronage System.—A profound disquisition on its Evils by William Paley of England (1785).—James Wilson on Patronage and Official Appointments.

PRESIDENT WASHINGTON'S three cardinal rules were ("Writings," ix, 479): 1. He would not be under engagements to any person. 2. He would not be influenced by "ties of family blood." 3. Three things were to be considered: (*a*) Fitness. (*b*) The "comparative merits and sufferings in service." (*c*) The equal distribution of appointments among the States.

It is noteworthy that the civil service law is practically the same as the three last requirements. It is therefore Washingtonian.

President John Adams went into office with the "determination to make as few removals as possible—not one from personal motives, not one from party considerations" (ix, 47). But he would not countenance "misconduct in office," and he removed "several officers at Portsmouth" because their "daily language," reported to him, implied "aversion if not hostility to the government."

President Jefferson's principles are expressed in thirty-three words, thus (iv, 391): "Good men, in whom there is no objection but a difference of political principle, practiced only as far as the right of a private citizen

will justify, are not proper subjects of removal." Referring to removals from office, Jefferson says (iv, 409): "I had foreseen, years ago, that the first Republican President * * * would have a dreadful operation to perform." The Marshals removed by him were charged with packing juries. When urged by a representative of the Tammany Society of Baltimore to remove Federalists from office, the philosopher said (Parton's "Life of Jefferson," p. 611): "What is the difference between denying the right of suffrage and punishing a man for exercising it by turning him out of office?"

President Madison, writing to Edward Coles, August 29, 1834, said (iv, 356): "You call my attention, with much emphasis, to the principle * * * that offices were the spoils of victory. * * * I fully agree in all the odium you attach to such a rule. * * * The principle could not fail to degrade any administration."

President Monroe says (Gilman's "Monroe," p. 202): "No person at the head of the government has, in my opinion, any claim to the active partisan exertions of those in office under him."

President John Quincy Adams, not only refused to remove political opponents, but he even refused to remove a naval officer who had been concerned in an unexecuted project to insult one of his (Adams's) political friends. He says (Morse's "Adams," p. 180): "I have been urged to sweep away my opponents and provide for my friends. I can justify the refusal to adopt this policy only by the steadiness and consistency of my adherence to my own. If I depart from this in one instance, I shall be called upon to do the same in many. An invidious and inquisitorial scrutiny into the personal dispositions of public officers will creep through the whole Union, and the most selfish and sordid passions will be kindled into activity to distort the conduct and

misrepresent the feelings of men whose places may become the prize of slander upon them."*

President Tyler was opposed to making removals on account of political opinions. In his first annual message he said he had used the power only in cases of unfaithfulness, incompetency, and partisanship that led to undue influence over elections. He further said (Benton's Debates, xiv, 375): "I shall cordially concur in any constitutional measures for regulating and restraining the power of removal."

James Buchanan, in discussing in the Senate, in 1839, a bill to prevent the interference of Federal officers with elections, said (Curtis's "Buchanan," i, 395): "Now, sir, if any freak of destiny should ever place me in one of these executive departments * * * I shall tell you the course I would pursue. I should not become an inquisitor of the political opinions of the subordinate officeholders. * * * For the higher and more responsible offices, however, I would select able, faithful, and well tried political friends. * * * With General Washington, I believe that any other course 'would be a sort of political suicide.'"†

President Johnson says (Appendix to Cong. Globe, 1867, p. 4): "The unrestricted power of removal from office is a very great one to be trusted even to a Magistrate chosen by the general suffrage of the whole people, and accountable directly to them for his acts. It is undoubtedly liable to abuse, and at some period of our history perhaps has been abused."

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* Washington, says Mr. James Parton, made 9 removals, J. Adams 9, Jefferson 39, Madison 5, Monroe 9, and J. Q. Adams 2. Total, 73. J. C. Calhoun (ii, 438) says J. Adams made 10 removals and Jefferson 42. President Jackson's removals, in eight years, aggregated nearly 1,000.

† Washington's Writings, xi, 75. On page 78 of the same volume he speaks of "governmental suicide."

President Grant was not long in perceiving the need of reform in the civil service. In his 2nd annual message he says (Cong. Globe, 1870, p. 9): "I would respectfully call your attention to * * * a reform in the civil service of the country. I would have it go beyond the mere fixing of the tenure of office of clerks and employés, * * * I would have it govern * * * the manner of making all appointments. There is no duty which so much embarrasses the Executive and heads of Departments as that of appointments. * * * The present system does not secure the best men, and often not even fit men for public place."

President Hayes denounced the patronage system and advocated "a return to the principles and practices of the founders of the government" in both his letter of acceptance and his inaugural address. He also denounced the farming out of appointments among Con-

* The following "plank" from the national Democratic "platform" of 1876 favors the requirement of "proved competency" in filling public offices, which is precisely what the competitive examination system has accomplished. It is statesman-like and is in harmony with the present civil service law:

"Reform is necessary in the civil service. Experience proves that efficient, economical conduct of the governmental business is not possible if its civil service be subject to change at every election; be a prize fought for at the ballot-box; be a brief reward of party zeal, instead of posts of honor, assigned for proved competency, and held for fidelity in the public employ: that the dispensing of patronage should neither be a tax upon the time of all our public men nor the instrument of their ambition."

Mr. Tilden, in his letter of acceptance, favors the "organization of a better civil service system, under the tests, wherever practicable, of proved competency and fidelity." It is noteworthy that he repeats the words "proved competency." It is clear therefore what his course would have probably been had the Electoral Commission declared him elected President instead of Hayes.

gressmen, saying: "The offices in these cases have become not merely rewards for party services, but rewards for services to party leaders."

President Garfield says (Cong. Record, 1881, p. 3): "The civil service can never be placed on a satisfactory basis until it is regulated by law. For the good of the service itself, for the protection of those who are intrusted with the appointing power against the waste of time and obstruction to the public business, caused by the inordinate pressure* for place, and for the protection of incumbents against *intrigue* and *wrong*,† I shall, at the proper time, ask Congress to fix the tenure of the minor offices of the several Executive Departments, and to prescribe the grounds upon which removals shall be made during the terms for which incumbents have been appointed."

President Arthur favored civil service reform in his letter of acceptance of the nomination for Vice-President as well as in two annual messages. He found the

* We press such appointments upon the Departments; we crowd the doors; we fill the corridors; Senators and Representatives throng the offices and bureaus until the public business is obstructed; the patience of officers is worn out, and sometimes, for fear of losing their places by our influence, they at last give way, and appoint men, not because they are fit for the position, but because we ask it.—GARFIELD'S SPEECH IN CONGRESS, 1870.

Let it once be fully understood that continuance in office depends solely upon the faithful and efficient discharge of duties, and that no man will be removed to make place for another, and the reform will be half accomplished.—GARFIELD AT ATHENS, OHIO, 1879.

To reform this service is one of the highest and most imperative duties of statesmanship.—GARFIELD IN "ATLANTIC MONTHLY," JULY, 1877, p. 61.

† The italics are mine. The civil service law does not make sufficient provision "for the protection of incumbents against intrigue and wrong;" neither does it "prescribe the grounds upon which removals shall be made." (See introduction to Chapter VIII.)

"inordinate pressure for place" too great to bear, and further that it diverts the President's "time and attention from the proper discharge of other duties no less delicate and responsible, and which, in the very nature of things, cannot be delegated to other hands." Among other things, he said: "Original appointments should be based upon ascertained fitness. The tenure of office should be stable. Positions of responsibility should, as far as practicable, be filled by the promotion of worthy and efficient officers."

President Cleveland has proved himself a civil service reformer in deed as well as in word, not only as President, but as Governor of New York. In his inaugural address he says (Cong. Record, 1885, p. 3): "The people demand reform in the administration of the government and the application of business principles to public affairs. As a means to this end civil service reform should be in good faith enforced. Our citizens have the right to protection from the incompetency of public employés who hold their places solely as the reward of partisan service, and from the corrupting influence of those who promise and the vicious methods of those who expect such rewards. And those who worthily seek public employment, have the right to insist that merit and competency shall be recognized instead of party subserviency, or the surrender of honest political belief."

Again, in his second annual message, President Cleveland says (Cong. Record, Dec. 7, 1886, p. 11): "The continued operation of the law relating to our civil service has added the most convincing proofs of its necessity and usefulness. It is a fact worthy of note that every public officer who has a just idea of his duty to the people, testifies to the value of this reform. Its stanchest friends are found among those who under-

stand it best, and its warmest supporters are those who are restrained and protected by its requirements.

"The meaning of such restraint and protection is not appreciated by those who want places under the government, regardless of merit and efficiency, nor by those who insist that the selection for such places should rest upon a proper credential showing active partisan work. They mean to public officers, if not their lives, the only opportunity afforded them to attend to public business, and they mean to the good people of the country the better performance of the work of their government.

"It is exceedingly strange that the scope and nature of this reform are so little understood, and that so many things not included within its plan are called by its name. When cavil yields more fully to examination, the system will have large additions to the number of its friends.

"Our civil service reform may be imperfect in some of its details; it may be misunderstood and opposed; it may not always be faithfully applied; its designs may sometimes miscarry through mistake or willful intent; it may sometimes tremble under the assaults of its enemies or languish under the misguided zeal of impracticable friends; but if the people of this country ever submit to the banishment of its underlying principle from the operation of their government, they will abandon the surest guarantee of the safety and success of American institutions."

Representative James A. Bayard of Delaware (afterward United States Senator), the grandfather of Secretary of State Thomas F. Bayard, to whose patriotic and disinterested exertions is largely due Thomas Jefferson's election to the presidency in 1801, was decidedly opposed to "mortgaging the patronage of the Executive," to use his own words. His views on the civil service

problem are expressed in a deposition,* made on April 3, 1806, "in a cause depending in the Supreme Court of the State of New York, between James Gillespie, plaintiff, and Abram Smith, defendant." Mr. Bayard was a Federalist, but in the long contest (thirty-six ballots) for the presidency in the House of Representatives between the two great Republicans, Thomas Jefferson and Aaron Burr, was inclined, with the rest of his party (Federal), to support Burr, as being less opposed to them than Jefferson. But, after consultation and correspondence with Alexander Hamilton, Burr's personal character became better known to Mr. Bayard. Therefore, in order to keep Burr out of the presidency, and to prevent a failure to elect a President, and a consequent disruption of the new government, it was decided to put an end to the contest by the election of Jefferson. This was accomplished by Mr. Bayard, who held the vote of one State, casting a blank ballot.† But before

* The deposition is adduced as evidence in the course of a "Vindication of the late James A. Bayard," by his son, Senator James A. Bayard of Delaware, and may be found, with much other documentary evidence, in the Congressional Globe for January 31, 1855, page 137. Mr. Bayard's vindication of his father from the charge of falsehood made against him by Mr. Jefferson in his "Anas" papers (ix, 209), is complete and overwhelming. Mr. Jefferson's charge was undoubtedly made under a misunderstanding of the facts of the case; and something may also be attributed perhaps to the adroitness of Senator Smith (whose deposition appears on page 100) in drawing him out.

† Mr. Bayard, in order to avoid even the suspicion of impure motives in giving, as he said, "the 'turn' to the election," declined an appointment as Minister to France, tendered to him by President Adams in February, 1801, and to which he had been confirmed by the Senate, because it "would be held on the tenure of Mr. Jefferson's pleasure." He said: "My ambition shall never be gratified at the expense of a suspicion."

NOTE.—I am indebted to Secretary of State T. F. Bayard for the minute details concerning his grandfather's course and change of sentiment in the presidential election of 1801.

this was done, it was thought proper to secure Mr. Jefferson's engagement in certain important political matters, which are explained in the following extract from the deposition of Mr. Bayard :

"I stated to Mr. Nicholas* that if certain points of the future administration could be understood and arranged with Mr Jefferson, I was authorized to say that three States would withdraw from an opposition to his election. He asked me what those points were. I answered : First, sir, the support of public credit ; secondly, the maintenance of the naval system ; and lastly, that subordinate public officers, employed only in the execution of details established by law, shall not be removed from office on the ground of their political character, nor without complaint against their conduct. I explained myself, that I considered it not only reasonable, but necessary, that offices of high discretion and confidence should be filled by men of Mr. Jefferson's choice. I exemplified by mentioning, on the one hand, the offices of the Secretaries of States, Treasury, foreign Ministers, &c., and on the other the Collectors of ports, &c. Mr. Nicholas answered me, that he considered the points as very reasonable ; that he was satisfied that they corresponded with the views and intentions of Mr. Jefferson, and [that he] knew him well. That he was acquainted with most of the gentlemen who would probably be about him and enjoying his confidence, in case he became President, and that if I would be satisfied with *his* assurance, he could solemnly declare it as his opinion that Mr. Jefferson, in his administration, would not depart from the points I had proposed." †

* Representative John Nicholas of Virginia.

† Mr. Bayard's deposition is corroborated by a deposition of United

Representative Josiah Quincy of Massachusetts, on January 30, 1811, made a very original and unique speech on the subject of officeholding and the appointment of Congressmen to office.

"Early in the session," says Mr. Edmund Quincy ("Life of Josiah Quincy," p. 219), "Mr. Macon* of North Carolina moved the following amendment to the Constitution:

"'*Resolved*, That no Senator or Representative shall be appointed to any civil office, place, or emolument, under the authority of the United States, until the expiration of the presidential term in which such person shall have served as a Senator or Representative.'

States Senator Samuel Smith of Maryland, who was also a witness in the case of Gillespie vs. Smith, and who was requested by Mr. Bayard, in 1801, to inquire of Mr. Jefferson personally concerning the political topics named (p. 99), and to bring a direct reply the next day. Senator Smith says (Appendix to Cong. Globe, vol. xxxi, p. 138): "I did so. And the next day (Saturday) told him that Mr. Jefferson had said that he did not think that such officers ought to be dismissed on political grounds only, except in cases where they had made improper use of their offices to force the officers under them to vote contrary to their judgment. That as to Mr. McLane, he had already been spoken to in his behalf by Major Eccleston, and from the character given him by that gentleman, he considered him a meritorious officer; of course that he would not be displaced, or ought not to be displaced. I further added that Mr. Bayard might rest assured (or words to that effect), that Mr. Jefferson would conduct, as to those points, agreeably to the opinions I had stated as his."

* Nathaniel Macon, born in North Carolina, 1757; served as a private in the Revolutionary War, having declined a commission. He was in the House and Senate from 1791 to 1828, the longest term of congressional service, I believe, on record. He was Speaker from 1801 to 1807; and president pro tem. of the Senate from 1825 to 1828. Died 1837.—E. QUINCY.

It is noteworthy that Mr. Macon's proposed amendment, which was again presented and urged in 1826, is in substance the same as that of Representative Tucker in the first Congress. (See note, page 103.)

"Mr. Quincy moved that the following proposition be added to it:

"'And no person standing to any Senator or Representative in the relation of father, brother, or son, by blood or marriage, shall be appointed to any civil office under the United States, or shall receive any place, agency, contract, or emolument from or under any department or officer thereof.'"

The following are extracts from Mr. Quincy's speech, as reported by his son:

"Upon this subject of offices my sentiments may perhaps be too refined for the present condition of human nature. And I am aware, in what I am about to say, that I may run athwart political friends as well as political foes. Such considerations as these shall not, however, deter me from introducing just and high notions of their duties to the consideration of the members of the Legislature. I hold, sir, the acceptance of an office of mere emolument, or which is principally emolument, by a member of Congress from the Executive, as unworthy his station, and incompatible with that high sense of irreproachable character which it is one of the choicest terrestrial boons of virtue to attain. For while the attainment of office is to members of Congress the consequence solely of coincidence with the Executive, he who has the office carries on his forehead the mark of having fulfilled the condition. And although his self-love may denominate his attainment of the office to be the reward of merit, the world, which usually judges acutely on these matters, will denominate it the reward of service. * * *

"Such is the opinion which, in my judgment, ought to be entertained of the mere acceptance of office by members of Congress. But as to that other class of

persons, who are open, notorious solicitors of office, they give occasion to reflections of a very different nature. This class of persons in all times past have appeared, and (for I say nothing of times present) in all times future will appear, on this and the other floor of Congress, creatures who, under pretense of serving the people, are in fact serving themselves; creatures who, while their distant constituents—good, easy men, industrious, frugal, and unsuspicious—dream, in visions, that they are laboring for their country's welfare, are in truth spending their time mousing at the doors of the palace or the crannies of the departments, and laying low snares to catch for themselves and their relations every stray office that flits by them. For such men, chosen into this high and responsible trust, to whom have been confided the precious destinies of this people, and who thus openly abandon their duties, and set their places and their consciences to sale, in defiance of the multiplied, strong, and tender ties by which they are bound to their country, I have no language to express my contempt. I never have seen, and I never shall see, any of these notorious solicitors of office, for themselves or their relations, standing on this or the other floor, bawling and bullying, or coming down with dead votes in support of executive measures, but I think I see a hackney laboring for hire in a most degrading service; a poor, earth-spirited animal, trudging in his traces, with much attrition of the sides and induration of the membranes, encouraged by this special certainty, that, at the end of his journey, he shall have measured out to him his proportion of provender.

"But I have heard that the bare suggestion of such corruption was a libel upon this House and upon this people. I have heard that we were in this country so

virtuous that we were above the influence of these allurements; that beyond the Atlantic, in old governments, such things might be suspected, but that here we were too pure for such guilt, too innocent for such suspicions. Mr. Chairman, I shall not hesitate, in spite of such popular declamation, to believe and follow the evidence of my senses and the concurrent testimonies of contemporaneous beholders. I shall not, in my estimation of character, degrade this people below, nor exalt them far above, the ordinary condition of cultivated humanity. And of this be assured, that every system of conduct or course of policy which has for its basis an excess of virtue in this country beyond what human nature exhibits in its improved state elsewhere, will be found on trial fallacious. Is there on this earth any collection of men in which there exists a more intrinsic, hearty, and desperate love of office or place—particularly of fat places? Is there any country more infested than this with the vermin that breed in the corruptions of power? Is there any in which place and official emolument more certainly follow distinguished servility at elections, or base scurrility in the press? And as to eagerness for the reward, what is the fact? Let now one of your great officeholders, a collector of the customs, a marshal, a commissioner of loans, a postmaster in one of your cities, or any officer, agent, or factor for your territories or public lands, or person holding a place of minor distinction, but of considerable profit, be called on to pay the last great debt of nature. The poor man shall hardly be dead; he shall not be cold; long before the corpse is in the coffin, the mail shall be crowded to repletion with letters and certificates, and recommendations and representations, and every species of sturdy, sycophantic solicitation by which obtrusive mendicity seeks charity

or invites compassion. Why, sir, we hear the clamor of the craving animals at the treasury-trough here in this capitol. Such running, such jostling, such wriggling, such clambering over one another's backs, such squealing because the tub is so narrow and the company so crowded! No, sir, let us not talk of stoical apathy toward the things of the national treasury, either in this people or in their Representatives or Senators.

"But it will be asked (for it has been asked), Shall the Executive be suspected of corrupting the national Legislature? Is he not virtuous? Without making personal distinctions or references, for the sake of argument it may be admitted that all Executives for the time being are virtuous—reasonably virtuous, Mr. Chairman—flesh and blood notwithstanding. And without meaning in this place to cast any particular reflections upon this or upon any other Executive, this I will say, that if no additional guards are provided, and now after the spirit of party has brought into so full activity the spirit of patronage, there never will be a President of these United States, elected by means now in use, who, if he deals honestly with himself, will not be able, on quitting his presidential chair, to address it as John Falstaff addressed Prince Hal: 'Before I knew thee, I knew nothing; and now I am but little better than one of the wicked.' The possession of that station under the reign of party will make a man so acquainted with the corrupt principles of human conduct; he will behold our nature in so hungry and shivering and craving a state, and be compelled so constantly to observe the solid rewards daily demanded by way of compensation for outrageous patriotism, that if he escape out of that atmosphere without partaking of its corruption, he must be below or above the ordinary condition of mortal nature. Is it

possible, sir, that he should remain altogether uninfected? What is the fact? The Constitution prohibits the members of this and of the other branch of the Legislature from being electors of the President of the United States. Yet what is done? The practice of late is so prevalent as to have grown almost into a sanctioned usage of party. Prior to the presidential terms of four years, members of Congress, having received the privileged ticket of admission, assemble themselves in a sort of electoral college, on the floor of the Senate or of the House of Representatives. They select a candidate for the presidency.* To their voice, to their influence, he is indebted for his elevation. So long as this condition of things continues, what ordinary Executive will refuse to accommodate those who in so distinguished a manner have accommodated him? Is there a better reason in the world why a man should give you, Mr. Chairman, an office worth two or three thousand dollars a year, for which you are qualified, and which he could give as well as not, than this—that you had been greatly instrumental in giving him one worth five and twenty thousand, for which he was equally qualified? It is in vain to conceal it. So long as the present condition of things continues, it may reasonably be expected that there shall take place regularly between the President of the

* This system continued till 1824, when William H. Crawford, who was nominated in accordance with it, ran behind both Adams and Jackson. In 1828 Jackson and Adams ran without any formal nomination. The first national Convention was held by the Democratic party in Baltimore in 1832, when Jackson and Van Buren were nominated. The Whigs held their first national Convention in Harrisburg in December, 1839, when General Harrison and John Tyler were nominated. In New York and Pennsylvania the caucus system was superseded by State Conventions between 1820 and 1830. Mr. Quincy helped to kill "King Caucus," as the system was sometimes called.

United States and a portion of both Houses of Congress an interchange, strictly speaking, of good offices." *

Mr. Quincy's speech, which may be found in full in Gales & Seaton's "Debates" for 1810–1811, beginning at page 843, closed as follows:

"The principle for which I contend, and which is the basis both of the original amendment and of my proposition, is this: Put it out of the power of the Executive to seem to pay any of the members of Congress, by putting it out of their power to receive. 'Avoid the appearance of evil.' We have been taught to pray, 'Lead us not into temptation.' They who rightly estimate their duties may find in public life no less necessity than in private life frequently to repeat this aspiration." *

Josiah Quincy, Jr., father of the author of the foregoing remarkable speech, who died just before the Revolutionary War (1775), but whose able pen helped to gain American independence, says that "*quam diu se bene gesserint*" (during good behavior), is "a regulation which ought to be the tenure of all offices of public trust." ("Life of J. Quincy, Jr.," p. 443.)

Senator John C. Calhoun of South Carolina, in 1835, in a "Report on the extent of Executive Patronage," said (Crallé's "Calhoun," v, 152): "Were a premium offered for the best means of extending to the utmost the power of patronage; to destroy the love of country, and to substitute a spirit of subserviency and man-worship; to encourage vice and discourage virtue;

* Josiah Quincy (born Feb. 4, 1772, died July 1, 1864) "first laid down the law (1822) * * * that the publication of the truth, with a good intention, and for a justifiable end, is not libelous. This ruling excited much censure at the time, but is now the acknowledged rule of law in this country and in England." (Am. Cyclopedia, xiv, 154.)

and, in a word, to prepare for the subversion of liberty and the establishment of despotism, no scheme more perfect could be devised."

Again, in 1846, in a speech in the Senate, Mr. Calhoun said (iv, 302): "The presidential election is no longer a struggle for great principles, but only a great struggle as to who shall have the spoils of office."

Senator John Holmes of Maine, speaking of "Executive power of Removal," explained the civil service problem in a nutshell. He said (G. & S.'s "Debates," 1829–30, vol. vi, pt. i, p. 389): "The ability and fidelity of the officer in office would be better evidence than ten thousand recommendations in favor of the candidate who would supersede him. * * * The longer a faithful officer is in, the better will his experience enable him to perform the duties."

Secretary of State Thomas F. Bayard, who has perhaps seen as much of the evils of the machine in politics as any man in this country, says ("Dartmouth Oration," 1882): "We see * * * hungry seekers for office, savage with delay and disappointment, and furious for success. * * * From such scenes and controversies men of dignity, refinement, and self-respect naturally shrink, * * * and places that should be filled by men possessing qualities that win and deserve private and public confidence, are filled by adroit, scheming, unblushing manipulators, who scoff at personal dignity and self-respect, and avow themselves 'practical politicians.' * * * Personal independence, individual conscience, fidelity to honest conviction, weigh nothing and can avail nothing to the man enlisted in the spoils system of politics."*

* The views of many other statesmen of the present day might be given, but they would make a small volume of themselves. The views of a few have already been given here and there. They are typical

William Paley, D.D., writing (about 1785) of "The British Constitution," says ("Moral and Political Philosophy," p. 205): "When the Constitution conferred upon the Crown the nomination to all employments in the public service, the authors of this arrangement were led to it by the obvious propriety of leaving to a master the choice of his servants, and by the manifest inconveniency of engaging the National Council, upon every vacancy, in those personal interests which attend elections to places of honor and emolument. Our ancestors did not observe that this disposition added an influence to the regal office which, *as the number and value of public employments increased,** would supersede in a great measure the forms and change the character of the ancient Constitution. They knew not, what the experience and reflection of modern ages have discovered, that patronage universally is power; that he who possesses in a sufficient degree the means of gratifying the desires of mankind after wealth and distinction, by whatever checks and forms his authority may be limited or disguised, will direct the management of public affairs. Whatever be the mechanism of the political engine, he will guide the motion. * * * Changes ought not to be adventured upon without a *comprehensive* discernment of the consequences—without a knowledge as well of the *remote tendency* as of the immediate design."

In speaking of the checks and balances of the British Constitution, Doctor Paley says (p. 211): "The King's choice of his Ministers is controlled by the obligation he is under of appointing those men to offices in the

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cases, and ought therefore to suffice. Many "leading statesmen's principles" appear in the succeeding chapter in preference to this because they treat of the power of removal. (See pages 210 to 216.)

* The italics are mine. Compare with page 56.

state who are found capable of managing the affairs of his government with the two Houses of Parliament. Which consideration imposes such a necessity upon the Crown as hath in a great measure subdued the influence of favoritism; insomuch that it is become no uncommon spectacle in this country to see men promoted by the King to the highest offices and richest preferments which he has in his power to bestow, who have been distinguished by their opposition to his personal inclinations."

In speaking of plans for "an equal or a reformed representation," he says (pp. 215, 216): "One consequence, however, may be expected from these projects, namely, 'less flexibility to the influence of the Crown.' And since the diminution of this influence is the declared and perhaps the sole design of the various schemes that have been produced, whether for regulating the elections, contracting the duration, or for purifying the constitution of Parliament by the exclusion of placemen and pensioners, it is obvious to remark that the more apt and natural as well as the more safe and quiet way of attaining the same end would be by a direct reduction of the patronage of the Crown, which might be effected to a certain extent without hazarding further consequences. Superfluous and exorbitant emoluments of office may not only be suppressed for the present, but provisions of law be devised which should for the future restrain within certain limits the number and value of the offices in the donation of the King. * * * It is the nature of power always to press upon the boundaries which confine it."*

* It is noteworthy that so profound a thinker as Dr. Paley should favor woman suffrage. Speaking of the right of representation, he says (p. 214): "We waive a controversy with those writers who insist upon

James Wilson, LL.D., one of the framers of the national Constitution,* and afterward an Associate Justice of the United States Supreme Court, in the course of a lecture entitled a "Comparison of the Constitution of the United States with that of Great Britain," thus expatiates concerning the evils of patronage ("Lectures on Law," i, 446): "We are now arrived, in our progress, at another fountain, from which, in Great Britain, the waters of bitterness have plentifully flowed—I mean the fountain of office. * * * Offices of trust and profit are scattered, with a lavish hand, among those by whom a return, very dangerous to the liberties of the nation, may be made, and from whom such a return is but too often expected. This is the box of Pandora, which has been opened on Britain. To its poisonous emanations have been owing the contaminated and contaminating scenes of venality, of prostitution, and corruption which have crowded and disgraced her political theater. To the same efficacy have been owing the indiscriminate profligacy and universal degeneracy which have been diffused through every channel into which the treasures of the public have procured admission."

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representation as a 'natural' right. We consider it so far only, as a right at all, as it conduces to public utility; that is, as it contributes to the establishment of good laws, or as it secures to the people the just administration of these laws. These effects depend upon the disposition and abilities of the national counselors. * * * If this right be 'natural,' no doubt it must be equal, and the right, we may add, of one sex as well as of the other. Whereas every plan of representation that we have heard of begins by excluding the votes of women, thus cutting off, at a single stroke, one-half the public from a right which is asserted to be inherent in all; a right too, as some represent it, not only universal, but inalienable, and indefeasible, and imprescriptible."

* Washington called Mr. Wilson "as able, candid, and honest a member as was in the Convention." (Bancroft's His. of the Const., ii, 241.)

In another lecture, entitled "Of Government" (i, 401–2), Justice Wilson lays down fundamental rules for guidance in appointments to office: "The appointment to offices is an important part of the executive authority. Much of the ease, much of the reputation, much of the energy, and much of the safety of the nation depends on judicious and impartial appointments. But are impartiality and fine discernment likely to predominate in a numerous executive body? In proportion to their own number will be the number of their friends, favorites, and dependents. An office is to be filled. A person nearly connected by some of the foregoing ties with one of those who are to vote in filling it, is named as a candidate. His patron is under no necessity to take any part, particularly responsible, in his appointment. He may appear even cold and indifferent on the occasion. But he possesses an advantage, the value of which is well understood in bodies of this kind. Every member who gives, on his account, a vote for his friend, will expect the return of a similar favor on the first convenient opportunity. In this manner a reciprocal intercourse of partiality, of interestedness, of favoritism, perhaps of venality, is established; and in no particular instance is there a practicability of tracing the poison to its source. Ignorant, vicious, and prostituted characters are introduced into office; and some of those who voted, and procured others to vote for them, are the first and loudest in expressing their astonishment that the door of admission was ever opened to men of their infamous description. * * * Those who possess talents and virtues, which would reflect honor on office, will be reluctant to appear as candidates for appointments. If they should be brought into view, what weight will virtue, merit, and talents for office have in a balance held and poised by partiality, intrigue, and chicane?

"The person who nominates or makes appointments to office should be known. His own office, his own character, his own fortune should be responsible. He should be alike unfettered and unsheltered by counselors. No constitutional stalking-horse should be provided for him to conceal his turnings and windings, when they are too dark and too crooked to be exposed to public view. Instead of the dishonorable intercourse which I have already mentioned, an intercourse of a very different kind should be established—an intercourse of integrity and discernment on the part of the magistrate who appoints, and of gratitude and confidence on the part of the people who will receive the benefit of his appointments. Appointments made and sanctioned in this highly respectable manner will, like a fragrant and beneficent atmosphere, diffuse sweetness and gladness around those to whom they are given. Modest merit will be beckoned to in order to encourage her to come forward. Bare-faced impudence and unprincipled intrigue will receive repulse and disappointment, deservedly their portion."

CHAPTER VIII.

THE POWER OF REMOVAL.*

A remedy for its Mistakes and Abuses.—The Power discussed in the first Congress (1789).—The Decision then made criticised by Benton, Webster, and others.—The 4-Years' Term Law (note).

THE debate in the first Congress on the power to remove public officials was one of great interest and importance, and was besides very instructive. A bill was introduced in the House creating "The Depart-

* On July 27, 1842, a Select Committee of the House, Garrett Davis chairman, reported as to "the cause, manner, and circumstances of the removal of Henry H. Sylvester, late a clerk in the Pension Office." It favored the repeal of the 4-years' law; also the giving of written reasons for removals, that the removed officer might have "an opportunity to arraign his superior for an abuse of power, both before the country and Congress." It denounced secret removals as "unjust, impolitic, and immoral." "No removal should ever take place except when the *public weal* requires it." It further says (H. Repts. No. 945, 27th Cong., 2d Sess., vol. iv, p. 4): "Your committee know no portion of the American population which is more oppressed and enslaved in will and spirit than the subordinates in the executive departments; none among whom there is more mental suffering, arising from a constant dread of being visited with the petty proscription of some small tyrant, 'clothed with (*sic*) a little brief authority,' by which they and their families are to be deprived of their support. It was the duty of Mr. Spencer * * * to have protected such a subordinate as Sylvester."

On page 6 of this powerful and most admirable report the committee says: "The practice of treating all the offices of this great government as 'the spoils of victory,' and, with the rise and fall of contending parties, the ejection of a large multitude of experienced, honest, and capable incumbents, to make room for needy mercenaries, who entered the political conflict without any principle or love of country, but impelled wholly by a hope of plunder, is the greatest and most threatening abuse that has ever invaded our system. It makes the President the *great feuda-*

ment of Foreign Affairs" (State Department), the Secretary of which was, in the words of the bill, "to be removable by the President of the United States."* The discussion was on striking out the last quoted words. The majority claimed that the President alone had the power of removal, while the minority claimed that the consent of the Senate was necessary; that is, in the case of officers confirmed by the Senate.

Judged by the light of nearly a century of experience, it is plain that both sides were partly right and partly wrong. The forefathers, who were legislating for less than four million of people, were constructing a political chart to guide and protect future generations, and it is not strange that they should have made a few mistakes. While it is clear, as pointed out by the majority, that the President should have

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tory of the nation, and all offices *fiefs*, whose tenure is *suit and service* to him. It is because all those *fiefs* are at his sovereign will, to be confirmed or granted anew after each presidential election, that the whole country is kept perpetually convulsed by that oft-recurring and all-absorbing event."

The report of the Morehead Committee on Retrenchment, made June 15, 1844, is chiefly devoted to the evils of executive patronage and the abuse of the power of removal. Speaking of the latter subject, the committee proclaims the following incontrovertible truth (S. Docs. No. 399, 28th Cong., 1st Sess., vol. vii, p. 31): "A citizen of the United States who accepts a public trust, however obscure his birth or humble his employment, has an inviolable right to be protected in the faithful discharge of his duties from the violence or the menaces of arbitrary power."

On page 55 the committee recommends the passage of a civil service law (the first of its kind, so far as I know, ever made in Congress), as follows: "That a law ought to be passed, prescribing regulations as regards the qualifications, the appointment of persons to office, * * * and declaring the disqualifications or the reasons which will be considered in law sufficient to authorize the President, the heads of departments, and courts of law to suspend, dismiss, or remove persons from office."

*The motion to establish the above and other Executive Departments was made originally by Mr. Boudinot, in a speech, on May 19, 1789.

the power of removal, it is equally clear, as pointed out by the minority, that there should be a check to prevent him or anybody else from abusing it. Further, the President and his chief officials are as liable to make mistakes as other men. Of all public men they should be the first to correct a mistake or to right a wrong, and thus set an example for others to follow.

We should give officeholders, chief as well as subordinate, all the protection we can from mistakes, dislikes, fits of passion, jealousy, prejudices, caprices, intrigues, &c. But what kind of protection can we give them? It appears to me that, under the civil service law system, a Board of Appeals should be established, which could be increased in number as the number of offices and the scope of the law increase, before which all reasonable complaints could be heard, and that where the complaint is sustained, the aggrieved official should be reinstated with full pay.* It is required by Rule 16 that the Civil Service Commissioners shall perform the work of this proposed Board. But as the Commis-

* There is a remedy for every distemper in government, if the people sre not wanting to themselves. For a people wanting to themselves, there is no remedy.—JAMES WILSON.

Napoleon was a despot, it is said. Yet he never dismissed any one from public office without an inquiry and report of facts, and rarely ever without hearing the accused functionary; never when the questions involved were civil or administrative.—NAPOLEONIC IDEAS. BY LOUIS NAPOLEON.

But Napoleon, who was a statesman as well ss a soldier, sometimes dismissed officials without much ceremony. "'You cannot find me guilty of dishonesty,' observed the minister, Barbé-Marbois, on receiving his dismissal. 'I had rather,' replied Napoleon, 'that you had shown yourself dishonest than a fool. There is a limit to one; there is none whatever to the other.'" (Crowe's "History of France," v, 147.)

Napoleon was right in one respect at least, namely, that fools are not proper persons to fill public offices

sioners are already overworked, the proposition is not practical. The functions of this proposed Board would resemble in one respect those of the Supreme Court of the United States, for one of the most important functions of the Supreme Court is to correct the mistakes of the legislative and executive departments. Again, having had nothing to do with the nomination, confirmation, or appointment of officers, it would, like the Supreme Court, be free of prejudice. Such a Board would be at least a partial check on the President and all other chief officials, and would aid in preventing some future Jackson or Lincoln from throwing the official machinery of government out of gear. This is well, for restraint, in public as well as in private life, is the safety-valve of the body-politic.

The minority, as before said, were certainly right about the necessity of a check to prevent the President from abusing the power of removal. But the senatorial check they proposed, however practical it may have been then, is certainly not practical now, for, on account of the great increase of business, the Senate has hardly time now to look after confirmations, much less removals. Further, the exact check they proposed was incorporated in the Tenure of Office Act of 1866–67,* and was found in practice to be unsatisfactory. One example of its inefficacy will suffice. J. D. Cox, in an article in the *North American Review* for January, 1871 (p. 87), in speaking of the corruption at Washington after the demoralizing civil war, and incidentally of the Tenure of Office Act, says that "dishonest (official) incumbents were plundering the people under the shelter of a Tenure of Office Act, which seemed to be skillfully adapted to remove every

* Repealed in 1887.

trace of responsibility from both the appointing and confirming powers. The Republicans in Congress were complaining that the President refused to remove men who were indicted or convicted in the courts, and the friends of the President retorted that the Senate refused to consent to the removal of others who were proven to be plunderers of the treasury on the like evidence." *

Again, the minority were certainly right about it being the intention of the framers of the Constitution that the Senate should be a check on the President, and also (which was admitted by the majority) that its duties are sometimes executive and sometimes judicial, and that it is to this extent blended with both the executive and judicial departments The Senate, so far as the removal of an officer confirmed by it is concerned, is at all times a more or less perfect check on the President, because he has to depend on it for the confirmation of a successor. The Senate, in fact, as it is almost self-evident was the intention of the framers of the Constitution, exercises great power. It should therefore be composed of experienced and trained statesmen only. No mere politician should enter its chamber. And it would be better, far better, that its members should all be as poor as Socrates, than that one of them should be chosen on account of his wealth, or be even charged with buying his election. Bad men may get into the Senate; but the people who, on account of this fact, howl for its abolition, would destroy the equilibrium of the government. They might as well, for the same reason, ask for the abolition of either the House of Representatives or the United States Supreme Court. The proper remedy is purification.

* See the remarkable prediction of Representative Ames, page 125. Mr. Madison (page 117) also indulges in some lamentable forebodings, and under the patronage system their realization is not impossible.

SPEECHES IN FAVOR OF REMOVAL BY THE PRESIDENT ALONE. *

James Madison of Virginia said (pp. 462, 463, 496, 498, 581): "It is evidently the intention of the Constitution that the first Magistrate should be responsible for the executive department. So far therefore as we do not make the officers who are to aid him in the duties of that department responsible to him, he is not responsible to his country. Again, is there no danger that an officer, when he is appointed by the concurrence of the Senate, and has friends in that body, may choose rather to risk his establishment on the favor of that branch than rest it upon the discharge of his duties to the satisfaction of the executive branch, which is constitutionally authorized to inspect and control his conduct? And if it should happen that the officers connect themselves with the Senate, they may mutually support each other, and for want of efficacy reduce the power of the President to a mere vapor; in which case his responsibility would be annihilated, and the expectation of it unjust. The high executive officers, joined in cabal with the Senate, would lay the foundation of discord, and end in an assumption of the executive power, only to be removed by a revolution in the government. I believe no principle is more clearly laid down in the Constitution than that of responsibility. * * *

* The salient points only of this debate are given. They are taken from vol. i of "The Debates and Proceedings in the Congress of the United States, compiled from authentic materials, by Joseph Gales, Sr." The speeches, divided pro and con, are given in the order of their delivery; but those who spoke twice or three times, have their remarks combined in one speech. Repetitions of arguments, either by the same or different speakers, have, as far as practicable, been omitted.

"Is the power of displacing an executive power? I conceive that if any power whatsoever is in its nature executive, it is the power of appointing, overseeing, and controlling those who execute the laws. If the Constitution had not qualified the power of the President in appointing to office, by associating the Senate with him in that business, would it not be clear that he would have the right, by virtue of his executive power, to make such appointment? Should we be authorized, in defiance of that clause in the Constitution, 'The executive power shall be vested in a President,' to unite the Senate with the President in the appointment to office? * * * If it is admitted that we should not, I think it may be disputed whether we have a right to associate them in removing persons from office, the one power being as much of an executive nature as the other; and the first only is authorized by being excepted out of the general rule established by the Constitution, in these words: 'The executive power shall be vested in a President.' * * *

"The doctrine, however, which seems to stand most in opposition to the principles I contend for is that the power to annul an appointment is, in the nature of things, incidental to the power which makes the appointment. I agree that if nothing more was said in the Constitution than that the President, by and with the advice and consent of the Senate, should appoint to office, there would be great force in saying that the power of removal resulted, by a natural implication, from the power of appointing. But there is another part of the Constitution no less explicit than the one on which the gentleman's doctrine is founded. It is that part which declares that the executive power shall be vested in a President of the United States. The association of the Senate with the President in exer-

cising that particular function is an exception to this general rule; and exceptions to general rules, I conceive, are ever to be taken strictly.* But there is another part of the Constitution which inclines, in my judgment, to favor the construction I put upon it—the President is required to take care that the laws be faithfully executed. If the duty to see the laws faithfully executed be required at the hands of the Executive Magistrate, it would seem that it was generally intended he should have that species of power which is necessary to accomplish that end. * * * Now if the officer, when once appointed, is not to depend upon the President for his official existence, but upon a distinct body (for where there are two negatives required, either can prevent the removal), I confess I do not see how the President can take care that the laws be faithfully executed. * * *

"The danger then consists merely in this: the President can displace from office a man whose merits require that he should be continued in it. What will * * * operate to prevent it (this abuse of power)?

* Daniel Webster says (iv, 193): "The error of this argument lies in this. It supposes the power of removal to be held by the President under the general grant of executive power. Now it is certain that the power of appointment is not held under that general grant, because it is particularly provided for, and is conferred, in express terms, on the President and Senate. If therefore the power of removal be a natural appendage to the power of appointment, then it is not conferred by the GENERAL WORDS granting executive power to the President, but is conferred by the SPECIAL CLAUSE which gives the appointing power to the President and Senate. * * * If exceptions to a general rule are to be taken strictly, when expressed, it is still more clear, when they are not expressed at all, that they are not to be implied except on evident and clear grounds; and as the general power of appointment is conf ssedly given to the President and Senate, no exception is to be implied in favor of one part of that general power, namely, the removing part, unless for some obvious and irresistible reason."

In the first place, he will be impeachable by this House, before the Senate, for such an act of maladministration, for I contend that the wanton removal of meritorious officers would subject him to impeachment and removal from his own high trust. * * * Can he accomplish this end? No. He can place no man in the vacancy whom the Senate shall not approve.

"If there is any point in which the separation of the legislative and executive powers ought to be maintained with greater caution, it is that which relates to officers and offices. The powers relative to offices are partly legislative and partly executive. The Legislature creates the office, defines the powers, limits its duration, and annexes a compensation. This done, the legislative power ceases. They ought to have nothing to do with designating the man to fill the office. That I conceive to be of an executive nature."

John Vining of Delaware said (pp. 465, 511): "If this power is not in the President, it is not vested in any body whatever. It cannot be within the legislative power of the Senate, because it is of an adverse nature. It cannot be within the executive power of the Senate, because they possess none but what is expressly granted by the Constitution. * * *

"I take it that the best principle is that he who is responsible for the conduct of the officer, ought to have the power of removing him. * * * Perhaps it might be equally right that the responsible person should have the appointment of those who are to aid him. But this case is qualified by an express stipulation in the Constitution, and therefore must be submitted to.

"The argument of convenience is strong in favor of the President, for this man (Secretary F. A.) is an arm or an eye to him. He sees and writes his secret dispatches. He is an instrument over which the President

ought to have a complete command. * * * If the President removes a valuable officer, which seems to be the great danger the gentleman from South Carolina (Mr. Smith) apprehends, it would be an act of tyranny which the good sense of the nation would never forget. But if the Senate turns out a good man, they might be re-elected by the Legislatures. The Senate may remove a good officer without feeling any injury. They are not feelingly sensible of the advantages arising from his labors, because they do not act in concert with him; while the President, by such a removal, deprives himself of a valuable and necessary aid. When a good officer is obtained, the President has every motive of justice, self-interest, and public good to retain him in his situation. None of these motives operate, or but faintly operate, upon the Senate."

On page 570 Mr. Vining, in reply to Mr. Jackson, speaks of the danger "of denying the Executive a due proportion of power." This, he said, was the case in both Sweden and Poland. "In Sweden," he said, "the limited power of the King was nearly annihilated by an aristocracy." The King, "for the security of his nation," and with the assent of the nation, had been compelled "to assume all the powers of despotism." Of Poland he said: "The object of the Poles has been to guard against what was called the encroachments of the throne. 'It is not,' said they but a century ago, 'a master that we want, it is only a chief.' Some went further, and asserted that a free people wanted no chief at all." Of our own government he said: "If by legislative encroachment we weaken the executive arm, we render it incapable of performing the functions assigned it by the Constitution, and subject it to become an easy prey to the other branches of the government."

Elias Boudinot of New Jersey said (pp. 468, 469, 527,

528): "Let us examine whether it (the power of removal) belongs to the Senate and President. Certainly, sir, there is nothing that gives the Senate this right in express terms. But they are authorized, in express words, to be concerned in the appointment. And does this necessarily include the power of removal? If the President complains to the Senate of the misconduct of an officer, and desires their advice and consent to the removal, what are the Senate to do? Most certainly they will inquire if the complaint is well founded. To do this they must call the officer before them to answer. Who then are the parties? The supreme executive officer against his assistant; and the Senate are to sit as judges, to determine whether sufficient cause of removal exists. Does not this set the Senate over the head of the President? But suppose they shall decide in favor of the officer. What a situation is the President then in, surrounded by officers with whom, by his situation, he is compelled to act, but in whom he can have no confidence; reversing the privilege given him by the Constitution, to prevent his having officers imposed upon him who do not meet his approbation!

"But I have another more solid objection, which places the question in a more important point of view. The Constitution has placed the Senate as the only security and barrier between the House of Representatives and the President. Suppose the President has desired the Senate to concur in removing an officer, and they have declined. Or suppose the House has applied to the President and Senate to remove an officer obnoxious to them, and they determine against the measure. The House can have recourse to nothing but an impeachment, if they suppose the criminality of the officer will warrant such procedure. Will the Senate then be that upright court which they ought to ap-

peal to on this occasion, when they have prejudged your cause? I conceive the Senate will be too much under the control of their former decision to be a proper body for this House to apply to for impartial justice. As the Senate are the dernier resort, and the only court of judicature which can determine on cases of impeachment, I am for preserving them free and independent, both on account of the officer and this House. I therefore conceive that it was never the intention of the Constitution to vest the power of removal in the President and Senate; but as it must exist somewhere, it rests on the President alone. * * *

"The President nominates and appoints. He is further expressly authorized to commission all officers. Now does it appear from this distribution of power that the Senate appoints? Does an officer exercise powers by authority of the Senate? No. I believe the President is the person from whom he derives his authority. He appoints, but under a check. It is necessary to obtain the consent of the Senate. But after that is obtained, I ask who appoints? Who vests the officer with authority? Who commissions him? The President does these acts by his sole power, but they are exercised in consequence of the advice of another branch of the government. If therefore the officer receives his authority and commission from the President, surely the removal follows as coincident. * * * The Constitution vested* all executive power in the President. The power of designating and appointing officers to execute the laws was in its nature executive. Consequently the President would appoint *ex officio*, if he had not been limited by the express words of the Constitution. Hence he (Mr. Boudinot) inferred, *ex officio*, he would remove without limitation.

* The four closing sentences are reported in the second person.

"Gentlemen say they have a sufficient remedy for every evil likely to result from connecting the Senate with the President. This they propose to do by allowing the power of suspension. This does not answer the end, because there is a possibility that the officer may not be displaced after a hearing before the Senate. * * * We had better at once give a power that would answer two valuable purposes, than one altogether nugatory. In the first place, it (removal) would entirely separate the legislative and executive departments, conformably to the great principles of the Constitution; and, in the second place, it would answer the end of government better, and secure real benefits to the Union."

Fisher Ames of Massachusetts said (pp. 474, 475, 476, 477, 540): "The executive powers are delegated to the President with a view to have a responsible officer to superintend, control, inspect, and check the officers necessarily employed in administering the laws. The only bond between him and those he employs is the confidence he has in their integrity and talents. When that confidence ceases, the principal ought to have power to remove those whom he can no longer trust with sefety. * * * The powers of the President are defined in the Constitution. But it is said that he is not expressly authorized to remove from office. If the Constitution is silent also with respect to the Senate, the argument may be retorted. If this silence proves that the power cannot be exercised by the President, it certainly proves that it cannot be exercised by the President by and with the advice and consent of the Senate. The power of removal is incident to government. But not being distributed by the Constitution, it will come before the Legislature, and, like every other omitted case, must be supplied by law.

"The attempt to blend the executive and legislative departments in exercising the power of removal is such a mixing as ought not to be carried into practice on arguments grounded on implication. And the gentleman from Virginia (Mr. White's) reasoning is wholly drawn from implication. He supposes, as the Constitution qualifies the President's power of appointing to office by subjecting his nominations to the concurrence of the Senate, that the qualification follows of course in the removal.

"Another reason occurs to me against blending these powers. An officer who superintends the public revenue will naturally acquire a great influence. If he obtains support in the Senate, upon an attempt of the President to remove him, it will be out of the power of the House, when applied to by the first Magistrate, to impeach him with success, for the very means of proving charges of malconduct against him will be under the power of the officer. All the papers necessary to convict him may be withheld while the person continues in his office. Protection may be rendered for protection; and as this officer has such extensive influence, it may be exerted to procure the reelection of his friends. These circumstances, in addition to those stated by the gentleman from New Jersey (Mr. Boudinot), must clearly evince to every gentleman the impropriety of connecting the Senate with the President in removing from office.*

* On page 542 Mr. Ames says: "If the Senate are to possess the power of removal, they will be enabled to hold the person in office, let the circumstances be what they may that point out the necessity or propriety of his removal. It creates a permanent connection. It will nurse faction. It will promote intrigue to obtain protectors and to shelter tools. Sir, it is infusing poison into the Constitution. * * * There is ruin in it. It is tempting the Senate with forbidden fruit."

"But why should we connect the Senate in the removal? Their attention is taken up with other important business, and they have no constitutional authority to watch the conduct of the executive officers, and therefore cannot use such authority with advantage. If the President is inclined to shelter himself behind the Senate with respect to having continued an improper person in office, we lose the responsibility, which is our greatest security. The blame among so many will be lost. * * *

"It must be admitted that the Constitution is not explicit on the point in contest. Yet the Constitution strongly infers that the power is in the President alone. It is declared that the executive power shall be vested in the President. Under these terms all the powers properly belonging to the executive department of the government are given, and such only taken away as are expressly excepted. If the Constitution had stopped here, and the duties had not been defined, either the President had had no powers at all, or he would acquire from that general expression all the powers properly belonging to the executive department. * * *

"The President * * * is the agent. The Senate may prevent his acting, but cannot act themselves. It may be difficult to illustrate this point by examples which will exactly correspond. But suppose the case of an executor, to whom is devised land, to be sold with the advice of a certain person, on certain conditions. The executor sells, with the consent and on the conditions required in the will. The conditions are broken. May the executor re-enter for the breach of them? Or has the person with whom he was obliged to consult in the sale any power to restrain him? The executor may remove the wrongful possessor from the land, though perhaps by the will he may hold it in trust

for another person's benefit. In this manner the President may remove from office; though, when vacant, he cannot fill it without the advice of the Senate."

Thomas Hartley of Pennsylvania said (pp. 479, 480, 481): "This is an office of considerable importance. * * * In all commercial countries it will require men of high talents to fill such an office, and great responsibility. It is necessary to connect the business in such a manner as to give the President a complete command over it; so in whatever hands it is placed, or however modulated, it must be subjected to his inspection and control. * * *

"Another reason why the power of removal should be lodged with the President rather than the Senate arises from their connection with the people. The President is the representative of the people in a near and equal manner. He is the guardian of his country. The Senate are the representatives of the State Legislatures; but they are very unequal in that representation. Each State sends two members to that House, although their proportions are as ten to one. Hence arises a degree of insecurity to an impartial administration. But if they possessed every advantage of equality, they cannot be the proper body to inspect into the proper behavior of officers, because they have no constitutional powers for this purpose."

John Lawrence of New York said (pp. 483, 484): "It has been stated as an objection that we should extend the powers of the President, if we give him the power of removal; and we are not to construe the Constitution in such way as to enlarge the executive power to the injury of any other; that as he is limited in the power of appointment by the control of the Senate, he ought to be equally limited in the removal. If there be any weight in this argument, it applies as forci-

bly against vesting the power conjointly in the President and Senate; because if we are not to extend the powers of the Executive beyond the express detail of duties found in the Constitution, neither are we at liberty to extend the duties of the Senate beyond those precise points fixed in the same instrument. Of course if we cannot say the President alone shall remove, we cannot say the President and Senate may exercise such power.

"It is admitted that the Constitution is silent on this subject. But it is also silent with respect to the appointments it has vested in the Legislature. The Constitution declares that Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or heads of departments, yet says nothing with respect to the removal. * * * In those cases in which the Constitution has given the appointment to the President, he must have the power of removal for the sake of consistency; for no person will say that if the President should appoint an inferior officer, he should not have the power to remove him when he thought proper, if no particular limitation was determined by the law."

Representative George Clymer of Pennsylvania said (pp. 489, 490): "I am clear that the Executive has the power of removal as incident to his department; and if the Constitution had been silent with respect to the appointment, he would have had that power also. The reason perhaps why it was mentioned in the Constitution was to give some further security against the introduction of improper men into office. But in cases of removal there is not such necessity for this check. What great danger would arise from the removal of a worthy man, when the Senate must be consulted in the appointment of his successor? Is it likely they will consent to advance an improper char-

acter? The presumption therefore is that he would not abuse this power; or, if he did, only one good man would be changed for another. If the President is divested of this power, his responsibility is destroyed. You prevent his efficiency, and disable him from affording that security to the people which the Constitution contemplates. * * * The Executive must act by others. But you reduce him to a mere shadow when you control both the power of appointment and removal. If you take away the latter power, he ought to resign the power of superintending and directing the executive parts of government into the hands of the Senate at once, and then we become a dangerous aristocracy, or shall be more destitute of energy than any government on earth."

Egbert Benson of New York said (pp. 505, 506, 507): "I will not repeat what has been said to prove that the true construction is that the President alone has the power of removal, but will state a case to show the embarrassment which must arise by a combination of the senatorial and legislative authority in this particular. I will instance the officer to which the bill relates. To him will necessarily be committed negotiations with the ministers of foreign courts. This is a very delicate trust. The supreme executive officer, in superintending this department, may be entangled with suspicions of a very delicate nature relative to the transactions of the officer, and such as from circumstances would be injurious to name. Indeed he may be so situated that he will not, cannot, give the evidence of his suspicion. Now, thus circumstanced, suppose he should propose to the Senate to remove the Secretary of Foreign Affairs. Are we to expect the Senate will, without any reason being assigned, implicitly submit to his proposition? They will not. Suppose

he should say he suspected the man's fidelity. They would say we must proceed further, and know the reason for this suspicion. They would insist on a full communication. Is it to be supposed that this man will not have a single friend in the Senate who will contend for a fair trial and a full hearing? The President then becomes the plaintiff and the Secretary the defendant. The Senate are sitting in judgment between the Chief Magistrate of the United States and a subordinate officer. Now I submit to the candor of the gentlemen whether this looks like good government. Yet in every instance when the President thinks proper to have an officer removed, this absurd scene must be displayed. How much better, even on principles of expediency, will it be that the President alone have the power of removal.

"It has been warmly contended that the power of removal is incidental to the power of appointment. It may be true in general, but upon examination we shall find there is a distinction in this case from what the general principle supposes. If the President and Senate are to be considered as one body, deliberating together on the business of appointments, every individual of which participates equal powers, the reasoning that has been urged will hold good. But I take it for granted that they are two distinct bodies, and can only give a simple affirmative or negative. No member of the Senate has power to offer an original proposition. In short, the moment we depart from this simple idea that the provision in the Constitution is intended for any other purpose but to prevent the President from introducing improper persons into office, we shall find it difficult to form any certain principle upon which they ought to act, and our opinions and deliberations will be discordant and distracted."

Mr. Benson further said that "if we declare in the bill that the officer shall be removable by the President, it has the appearance of conferring the power upon him." Therefore, in order to avoid even an apparent conference of power, and to do nothing more than declare the House's "sentiments upon the meaning of a constitutional grant of power to the President," he moved as a substitute for the words "to be removable by the President," the following: "whenever the said officer shall be removed by the President." Mr. Madison, who appreciated Mr. Benson's delicate legislative distinction, seconded the latter's motion. The amendment was adopted by a vote of 30 to 18.

Theodore Sedgwick of Massachusetts said (pp. 522, 523): "What is to be the consequence if the Senate are to be applied to (for permission to remove an officer)? If they are to do anything in this business, I presume they are to deliberate, because they are to advise and consent. If they are to deliberate, you put them between the officer and the President. They are then to inquire into the causes of removal. The President must produce his testimony. How is the question to be investigated? Because, I presume, there must be some rational rule for conducting this business. Is the President to be sworn to declare the whole truth, and to bring forward facts? Or are they to admit suspicion as testimony? Or is the word of the President to be taken at all events? If so, this check is not of the least efficacy in nature. But if proof be necessary, what is then the consequence? Why, in nine cases out of ten, where the case is very clear to the President that the man ought to be removed, the effect cannot be produced, because it is absolutely impossible to produce the necessary evidence. Are the Senate to proceed without evidence? Some gentlemen contend not.

Then the object will be lost. Shall a man, under these circumstances, be saddled upon the President who has been appointed for no other purpose but to aid the President in performing certain duties? * * * If he is, where is the responsibility? * * * Without you make him responsible, you weaken and destroy the strength and beauty of your system. What is to be done in cases which can only be known from a long acquaintance with the conduct of an officer?"

On page 582 Mr. Sedgwick says there are a thousand circumstances, exclusive of impeachments, which may demand removal from office, of which the President alone is the proper judge.

Richard Bland Lee of Virginia said (pp. 525, 526): "It is laid down as a maxim in government by all judicious writers that the legislative, executive, and judicial powers should be kept as separate and distinct as possible, in order to secure the liberties of the people. And this maxim is founded on the experience of ages; for we find that however governments have been established, however modified in their names or forms, if these powers are blended in or exercised by one body, the effects are ever the same—the public liberty is destroyed. * * * The framers of the Constitution * * * divided our government into three principal branches, with express declarations that all legislative power shall vest in one, all executive in another, and the whole judicial in a third. * * *

"It is our duty to vest all executive power belonging to the government where the Convention intended it should be placed. It adds to the responsibility of the most responsible branch of the government; and without responsibility we should have little security against the depredations and gigantic strides of arbitrary power. It is necessary to hold up a single and specific object to

the public jealousy to watch. Therefore it is necessary to connect the power of removal with the President. The Executive is the source of all appointments. Is his responsibility complete unless he has the power of removal? * * * If the power of removal is vested in the Senate, it is evident, at a single view, that the responsibility is dissipated, because the fault cannot be fixed on any individual. Besides the Senate are not accountable to the people. * * * But even if they were, they have no powers to enable them to decide with propriety in the case of removals, and therefore are improper persons to exercise such authority."

Benjamin Goodhue of Massachusetts said (pp. 533, 534): "It has long been an opinion entertained of the people of America that they would not trust the government with the power of doing good lest it should be abused. * * * The question on the present occasion seems to stand on nearly the same ground — whether we shall trust the power of doing good to the Executive Magistrate, or deprive him of it for fear he may abuse it. * * * The only security which the Constitution means to give us is to call the officers of government to account if they abuse their powers, and not to cramp their exercise so as to make them inefficient. * * *

"It has been said that the power would be more safe in the hands of the Senate than in that of the President. But I do not view it in that light. * * * It would be a very inconvenient and useless power for them to be possessed of. It is in nothing similar to the power they have in appointments. There they are really useful by their advice, because it is more probable that the Senate may be better acquainted with the characters of the officers that are nominated than the President himself. But after their appointments such knowl-

edge is little required. The officer is placed under the control of the President, and it is only through him that the improper conduct of a person in a subordinate situation can be known."

Thomas Scott of Pennsylvania indulged in a semi-facetious speech, but he made one good point when he said (p. 533): "Is anything more plain than that the President, above all the officers of government, both from the manner of his appointment and the nature of his duties, is truly and justly denominated the man of the people? Is there any other person who represents so many of them as the President? He is elected by the voice of the people of the whole Union. The Senate are the representatives of the State sovereignties. * * * Yet this body is held up as more nearly related to the people than the President himself."

Abraham Baldwin of Georgia said (pp. 557, 558, 559): "Gentlemen who undertake to construe, say they see clearly that the power which appoints must also remove. Now I have reviewed this subject with all the application and discernment my mind is capable of, and have not been able to see any such thing. There is an agency given to the President in making appointments, to which the Senate are connected. But how it follows that the connection extends to the removal, positively I cannot see. They say that it follows as a natural, inseparable consequence. This sounds like logic. But if we consult the premises, perhaps the conclusion may not follow. The Constitution opposes this maxim more than it supports it. The President is appointed by electors chosen by the people themselves, or by the State Legislatures. Can the State Legislatures, either combined or separate, effect his removal? No. But the Senate may, on impeachment by this House. The judges are appointed by the Presi-

dent, by and with the advice and consent of the Senate. But they are only removable by impeachment. The President has no agency in the removal. Hence, I say, it is not a natural consequence that the power which appoints should have the power of removal also. We may find it necessary that subordinate officers should be appointed in the first instance by the President and Senate. I hope it will not be contended that the President and Senate shall be applied to in all cases when their removal may be necessary. * * * I dispute the maxim altogether; for though it is sometimes true, it is often fallacious. But by no means is it that kind of conclusive argument which they contend for.

"But what is the evil of the President being at liberty to exercise this power of removal? Why we fear that he will displace not one good officer only, but, in a fit of passion, all the good officers of the government; by which, to be sure, the public would suffer. * * * I believe he could not turn out so many but that the Senate would still have some choice out of which to supply a good one. But even if he was to do this, what would be the consequence? He would be obliged to do the duties himself, or, if he did not, we would impeach him and turn him out of office as he had done others. I must admit though that there is a possibility of such an evil; but it is a remote possibility indeed. * * * Checked and surrounded as his powers are, I see little cause for apprehension."

Peter Sylvester of New York said (p. 561): "I lay it down as a positive case that the President is invested with all executive power necessary to carry the Constitution and the laws passed in pursuance thereof into full effect, so far as these powers are unchecked and uncontrolled by express stipulations in the Constitution. If the exceptions with respect to appointments had not

been made, the President would have had that power as well as the power of removal. In the first his power is eclipsed by the interference of the Senate, but in the last the manifestation is clear. Both these powers being inherent in the executive branch of the government, must remain there."

SPEECHES IN FAVOR OF REMOVAL BY THE PRESIDENT AND SENATE.

Alexander White of Virginia, who made the motion to strike out the words "to be removable by the President," said (pp. 467, 517): "It was objected that the President could not remove an officer unless the Senate was in session, but yet the emergency of the case might demand an instant dismission. I should imagine that no inconvenience would result on this account, because, on my principle, the same power which can make a temporary appointment can make an equal suspension.* The powers are apposite to each other.

"The gentleman (Mr. Madison) says we ought not to blend the executive and legislative powers further than they are blended in the Constitution. I contend we do not. There is no expression in the Constitution which says that the President shall have the power of removal from office. But the contrary is strongly implied, for it is said that Congress may establish offices by law, and vest the appointment, and consequently the removal, in the President alone, in the courts of law, or heads of departments. Now this shows that Congress are not at liberty to make any alteration by law in the mode of appointing superior officers, and conse-

* The practicability of suspension in lieu of removal was also advocated by Messrs. Jackson, Sherman, Page, Stone, and Tucker. Mr. Boudinot, as has already been shown, thought it would be too indecisive.

quently that they are not at liberty to alter the manner of removal.

"It has been said if the concurrence of the Senate be necessary, they may refuse to concur when a removal is proper. * * * We are to presume the Senate will do their duty. * * * But shall we, because the Senate may do wrong, give the President the power to act without them? Is it contended that the President has any superior agency in this business because he nominates? We may as well contend, on the same principle, that because this House has the exclusive power of originating money bills, we may repeal a law of that nature without the consent of the Senate."

William Smith of South Carolina said (pp. 457, 458, 508): "I imagine, sir, we are declaring a power in the President which may hereafter be greatly abused. * * * We ought to * * * contemplate this power in the hands of an ambitious man, who might apply it to dangerous purposes. If we give this power to the President, he may, from caprice, remove the most worthy men from office. * * *

"Another danger may result. If you desire an officer to be a man of capacity and integrity, you may be disappointed. A gentleman possessed of these qualities, knowing he may be removed at the pleasure of the President, will be loath to risk his reputation on such insecure ground. As the matter stands in the Constitution, he knows if he is suspected of doing anything wrong he shall have a fair trial, and the whole of his transactions be developed by an impartial tribunal. He will have confidence in himself when he knows he can only be removed for improper behavior. But if he is subjected to the whim of any man, it may deter him from entering into the service of his country; because, if he is not subservient to that person's pleasure, he

may be turned out, and the public may be led to suppose for improper behavior. This impression cannot be removed, as a public inquiry cannot be obtained. Besides this, it ought to be considered that the person who is appointed will probably quit some other office or business in which he is occupied. Ought he, after making this sacrifice in order to serve the public, to be turned out of place without even a reason being assigned for such behavior? Perhaps the President does not do this with an ill intention. He may have been misinformed; for it is presumable that a President may have around him men envious of the honors and emoluments of persons in office, who will insinuate suspicions into his honest breast that may produce a removal. Be this as it may, the event is still the same to the removed officer. The public suppose him guilty of malpractices. Hence his reputation is blasted, his property sacrificed. I say his property is sacrificed, because I consider his office as his property. He is stripped of this and left exposed to the malevolence of the world, contrary to the principles of the Constitution, and contrary to the principles of all free governments, which are that no man shall be despoiled of his property but by a fair and impartial trial.

"Gentlemen say we ought not to suppose such an abuse of power in the President. But the Constitution wisely guards against his caprice in the appointment, and why should we abate the security in cases of removal?" *

* Representative Smith made the following quotation from General Alexander Hamilton ("The Federalist," Hallowell Ed., p. 358): "It has been mentioned as one of the advantages to be expected from the cooperation of the Senate in the business of appointments, that it would contribute to the stability of the administration. The consent of that body would be necessary to displace as well as to appoint. A change

On page 471 Mr. Smith says: "It will not be contended that the State governments did not furnish the late Convention with the skeleton of this Constitution. I have turned over the Constitutions of most of the States. In some instances I find the Executive Magistrate suspends, but none of them have the right to remove officers." On page 459 he says that in order to test and decide the constitutionality of the question of removal, a removed officer could apply to a court of justice for a mandamus to be restored to his office, and that the court would settle it. As to the tenure of subordinate officers, he said they could "be regulated by law." But as to the removal of chief officials, he said that inasmuch as the Constitution prescribed impeachment only, it "contemplated only this mode." Messrs. Page and Huntington also believed in removal by impeachment. Impeachment for removal, except where required by the Constitution, is of course impracticable nowadays, even for the Secretary of State, which corresponds to the then (1789) proposed Secretary of Foreign Affairs. Messrs. Smith, Page, and Stone favored the holding of offices during good behavior. Other Representatives were opposed to this principle, and yet

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of the Chief Magistrate therefore would not occasion so violent or so general a revolution in the officers of the government as might be expected if he were the sole disposer of offices. Where a man in any station has given satisfactory evidence of his fitness for it, a new President would be restrained from attempting a change in favor of a person more agreeable to him by the apprehension that a discountenance of the Senate might frustrate the attempt, and bring some degree of discredit upon himself. Those who can best estimate the value of a steady administration, will be most disposed to prize a provision which connects the official existence of public men with the approbation or disapprobation of that body, which, from the greater permanency of its own composition, will in all probability be less subject to inconstancy than any other member of the government."

they feared that worthy men would be removed from office. In this respect their arguments were both inconsistent and contradictory.

Benjamin Huntington of Connecticut said (p. 459): "I think the clause ought not to stand. It was well observed that the Constitution was silent respecting the removal otherwise than by impeachment. I would likewise add that it mentions no other cause of removal than treason, bribery, or other high crimes and misdemeanors. It does not, I apprehend, extend to cases of infirmity or incapacity. Indeed it appears hard to me that after an officer has become old in an honorable service, he should be impeached for this infirmity. * * * It was said if the President had this authority, it would make him more responsible for the conduct of the officer. But if we have a vicious President, who inclines to abuse this power, which God forbid, his responsibility will stand us in little stead. Therefore that idea does not satisfy me that it is proper the President should have this power."

Elbridge Gerry of Massachusetts said (pp. 472, 473, 502, 574): "Some gentlemen consider this as a question of policy. But to me it appears a question of constitutionality, and I presume it will be determined on that point alone.

"The best arguments I have heard urged on this occasion came from the honorable gentleman from Virginia (Mr. Madison). He says the Constitution has vested the executive power in the President, and that he has a right to exercise it under the qualifications therein made. He lays it down as a maxim that the Constitution vesting in the President the executive power, naturally vests him with the power of appointment and removal. Now I would be glad to know from that gentleman by what means we are to decide this

question. Is his maxim supported by precedent drawn from the practice of the individual States? The direct contrary is established. In many cases the Executives are not in particular vested with the power of appointment. And do they exercise that power by virtue of their office? It will be found that other branches of the government make appointments. How then can gentlemen assert that the powers of appointment and removal are incident to the executive department of government? To me it appears at best but problematical. Neither is it clear to me that the power that appoints naturally possesses the power of removal.

"It has been argued that if the power of removal vests in the President alone, it annuls or renders nugatory the clause in the Constitution which directs the concurrence of the Senate in the case of appointments. It behooves us not to adopt principles subversive of those established by the Constitution.

"It has been frequently asserted, on former occasions, that the Senate is a permanent body, and was so constructed in order to give durability to public measures. If they are not absolutely permanent, they are formed on a renovating principle, which gives them a salutary stability. This is not the case either with the President or House of Representatives. * * * It appears to me that a permanency was expected in the magistracy,* and therefore the Senate were combined in the appointment to office. But if the President alone has the power of removal, it is in his power at any time to destroy all that has been done. It appears to me that such a principle would be destructive of the intention of the Constitution, expressed by giving the power of appointment to the Senate. It also subverts the clause which gives the Senate the sole power of

* This could not be unless a President were elected term after term.

trying impeachments, because the President may remove the officer in order to screen him from the effects of their judgment on an impeachment. Why should we construe any part of the Constitution in such a manner as to destroy its essential principles, when a more consonant construction can be obtained? * * *

"It has been said by my colleague that these officers are the creatures of the law. But it seems as if we were not content with that. We are making them the mere creatures of the President. They dare not exercise the privilege of their creation, if the President shall order them to forbear, because he holds their thread of life. His power will be sovereign over them, and will soon swallow up the small security we have in the Senate's concurrence to the appointment; and we shall shortly need no other than the authority of the supreme executive officer to nominate, appoint, continue, or remove. * * *

"It is said that the President will be subject to impeachment for dismissing a good man. This in my mind involves an absurdity. How can the House impeach the President for doing an act which the Legislature has submitted to his discretion?

"The Senate and this House may think it necessary to inquire why a good officer is dismissed. The President will say: 'It is my pleasure. I am authorized by law to exercise this prerogative. I have my reasons for it, but you have no right to inquire them of me.' This language may be proper in a monarchy; but in a republic every action ought to be accounted for."

Samuel Livermore of New Hampshire said (pp. 478, 479): "Surely a law passed by the whole Legislature cannot be repealed by one branch of it. So I conceive in the case of appointments it requires the same force to supersede an officer as to put him in office. I ac-

knowledge that the clause relative to impeachment is for the benefit of the people. It is intended to enable their representatives to bring a bad officer to justice who is screened by the President. But I do not conceive, with the honorable gentleman from South Carolina (Mr. Smith), that it by any means excludes the usual ways of superseding officers.

"When an important and confidential trust is placed in a man, it is worse than death to him to be displaced without cause. His reputation depends on the single will of the President, who may ruin him on bare suspicion. Nay, a new President may turn him out on mere caprice, or in order to make room for a favorite. This contradicts all my notions of propriety. Everything of this sort should be done with due deliberation. Every person ought to have a hearing before he is punished."

James Jackson of Georgia said (pp. 487, 488, 489, 530, 531, 555): "If this power is incident to the executive branch of government, it does not follow that it vests in the President alone, because he alone does not possess all executive powers. The Constitution has lodged the power of forming treaties, and all executive business, I presume, connected therewith, in the President; but it is qualified by and with the advice and consent of the Senate, provided two-thirds of the Senate agree therein. The same has taken place with respect to appointing officers. * * * It may be wrong that the great powers of government should be blended in this manner. But we cannot separate them. The error is adopted in the Constitution. * * *

"Behold the baleful influence of the royal prerogative when officers hold their commissions during the pleasure of the Crown! At this moment, see the King of Sweden aiming at arbitrary power, shutting up the

doors of his Senate, and compelling, by force of arms, his shuddering councilors to acquiesce in his despotic mandates.* I agree that this is the hour in which we ought to establish our government. But it is an hour in which we should be wary and cautious, especially in what respects the Executive Magistrate. With the present, I grant, every power may be safely lodged. * * * May not a man with a Pandora's box in his breast come into power and give us sensible cause to lament our present confidence and want of foresight? * * * I think this power too great to be safely trusted in the hands of a single man, especially in the hands of a man who has so much constitutional power. * * * I cannot agree to extend this power, because I conceive it may at some future period be exercised in such a way as to subvert the liberties of my country. * * * If the President has the power of removing all officers who may be virtuous enough to oppose his base measures, what would become of the liberties of our fellow-citizens? * * *

"I differ with gentlemen who say that the Senate have no part of the executive power, or that the President has no part of the legislative authority. I consider them as checks upon each other, to prevent the abuse of either. And it is in this way the liberties of the people are secured. I appeal for the truth of this sentiment to the writings of *Publius.*†

"I call upon gentlemen once more to * * * prove to me that it was not the intention of this Constitution to blend the executive and legislative powers. If these are the principles of the Constitution, why will

* Compare with Mr. Vining's remarks, page 121. Also see the admirable Swedish civil service regulations of the present day, page 186. The contrast between Sweden in 1789 and 1888 is remarkable.

† Alexander Hamilton.

gentlemen contend for the independency of each branch of the government?"

John Page of Virginia said (pp. 490–1, 519–20, 551, 552): "I venture to assert that this clause of the bill contains in it the seeds of royal prerogative. If gentlemen lay such stress on the energy of the government, I beg them to consider how far this doctrine may go. Everything which has been said in favor of energy in the Executive, may go to the destruction of freedom, and establish despotism. This very energy, so much talked of, has led many patriots to the Bastile, to the block, and to the halter. If the Chief Magistrate can take a man away from the head of a department without assigning any reason, he may as well be invested with power, on certain occasions, to take away his existence. But will you contend that this idea is consonant with the principles of a free government, where no man ought to be condemned unheard, nor till after a solemn conviction of guilt, on a fair and impartial trial? * * * If gentlemen had been content to say that the President might suspend, I should second the motion, and afterward the officer might be removed by and with the advice and consent of the Senate.

"The framers of the government had confidence in the Senate, or they would not have combined them with the Executive in the performance of his duties. * * * Some gentlemen contend that the Senate are a dangerous and aristocratic body. But I contend that they are a safe and salutary branch of the government, representing the republican Legislatures of the individual States, and intended to preserve the sovereignty and independence of the State governments, which they are more likely to do than the President, who is elected by the people at large. A popular President, influenced by the sentiments of his electors, may be induced to

believe that it would be best for the general interest that those governments were destroyed. But as long as we have that body independent of him, and secured in their authority, we may defy such impotent attempts. They will watch his conduct and prevent the exercise of despotic power. But if they are weakened and stripped of their essential authority, they will become weak barriers against the strides of an uncontrolled power. If you take from them their right to check the President in the removal of officers, they cannot prevent the dismission of a faithful servant who has opposed the arbitrary mandates of an ambitious President. The principles laid down in the Constitution clearly evince that the Senate ought not only to have a voice in the framing of laws, but ought also to see to their execution. * * * I myself shall never be satisfied unless I see fourfold checks upon the President. It (the clause in the bill) will inevitably lead to the establishment of those odious prerogatives which we, by an arduous conflict, have been endeavoring to get rid of.

"Indecision, delay, blunders—nay, villainous actions in the administration of government—are trifles compared to legalizing the full exertion of a tyrannical despotism. Good God! What! authorize in a free republic, by law too, by your first act, the exertion of a dangerous royal prerogative in your Chief Magistrate! What! where honor and virtue ought to be the support of your government, will you infuse and cherish meanness and servility in your citizens, and insolence and arbitrary power in your Chief Magistrate, when you know that thousands of virtuous citizens are dissatisfied with your government because they think they see the seeds of monarchy in it? And two whole States have refused to unite with you because they think your government dangerous to their liberties!

Will you openly, before their faces, in a solemn act of Congress, insert words which fully justify their opinions and fears? * * *

"It is said the officers ought to be commissioned *durante bene placito, et ne dure se bene gesserint,** a monstrous doctrine. As to inferior officers, who, we are told, must also be impeached, Congress have a constitutional right to empower the President to appoint, and, I suppose, to remove also; not that the power necessarily follows appointments."

Roger Sherman of Connecticut said (pp. 491, 492, 538, 576): "It is a general principle in law as well as reason that there shall be the same authority to remove as to establish * * * unless there are express exceptions made. * * * It is so in legislation, where the several branches whose concurrence is necessary to pass a law, must concur in repealing it. Just so I take it to be in cases of appointment; and the President alone may remove when he alone appoints, as in the case of inferior officers to be established by law. * * * I have not heard any gentleman produce an authority from law or history which proves that where two branches are interested in the appointment, one of them has the power of removal. I remember that the gentleman from Massachusetts (Mr. Sedgwick) told us that the two Houses, notwithstanding the partial negative of the President, possessed the whole legislative power. But will the gentleman infer from that that because the concurrence of both branches is necessary to pass a law, a less authority can repeal it? This is all we contend for.

"If gentlemen would consent to make a general law declaring the proper mode of removal, I think we should acquire a greater degree of unanimity, which, on this

* During good pleasure, and not during good behavior.

occasion, must be better than carrying the question against a large minority."

Michael Jenifer Stone of Maryland said (pp. 493, 495, 564, 566, 567, 568, 569): "If the Constitution had given no rule by which officers were to be appointed, I should search for one in my own mind. But as the Constitution has laid down the rule, I consider the mode of removal as clearly defined as by implication it can be. It ought to be the same as that of the appointment. What quality of the human mind is necessary for the one that is not necessary for the other? Information, impartiality, and judgment in the business to be conducted are necessary to make a good appointment. Are not the same properties necessary for a dismission?

"I cannot subscribe to the opinion that the executive, in its nature, implies the power to appoint the officers of government. Why does it imply it? The appointment of officers depends upon the qualities that are necessary for forming a judgment on the merits of men;* and the displacing of them, instead of including the idea of what is necessary for an executive officer, includes the idea necessary for a judicial one. Therefore it cannot exist, in the nature of things, that an executive power is either to appoint or displace the officers of government. Is it a political dogma? Is it founded in experience? If it is, I confess it has been very long wrapped up in mysterious darkness. * * * It is very forcible to my mind that the Constitution has confined his (the President's) sole appointment to the case of inferior officers. * * *

"Now I would ask, in all cases where the integrity

* Mr. Stone cut very close to the civil service law, for the examiners, by the aid of competitive examinations, form "a judgment on the merits of men." The law is the fulfillment of his prophecy, namely, "I believe the people can apply a remedy," &c. (p. 149).

and confidence is the same, whether it is more likely that one man should do right and exercise his power with propriety than a number of men with the aid of each other's deliberations? Is it more likely that a number of men should do wrong than one man? * * * It would be more difficult for a majority to be obtained in a body composed of members of thirteen independent States in favor of despotic measures than might justly be expected from the caprice or want of judgment in a single individual. Is it likely the danger would be so great? I apprehend it is not. * * *

"If the evils we apprehend should absolutely arise from our determination, I do not conceive, with some other gentlemen, that we are inevitably ruined. I believe the people can apply a remedy; and I have no doubt but they have sense and resolution enough for that purpose. * * *

"I suppose it is necessary to keep up the balance between the Executive Magistrate and the Senate. What is this balance? It is laid down in the Constitution that the President shall nominate and the Senate approve. We are bound then to carry this balance throughout all the subjects to which it relates. If the President has the sole power of removal, you destroy the power of the Senate. And though you do not expressly put the power of appointment in the President alone, yet you put it there effectively, because he may defeat, by removal, the joint appointment. Will this be giving the proper balance which the Constitution directs? No. It will be directly the reverse.

"If all executive power is vested in the President, what right has this House to prescribe him rules to interfere in forming executive officers? The Executive can better form them for itself. * * *

"If I look to the constitution or nature of things, I

should be led to conclude that the body choosing agents has the power of dismissing them, because the power naturally lodges in those who have the interest and management of the concern. The executive business of this officer is under the superintendence and management of the Senate as well as the President. Treaties with foreign nations must be conducted by the advice of the Senate, and concluded with their consent. Hence results a necessity in that body having a concern in the choice and dismissal of the Secretary of Foreign Affairs. I do not see any other sure or safe bottom on which the question can be determined.

"In the nature of things, in all appointments, there is an implied contract; on the part of the officer that he will perform the service, and on the part of those who appoint him that he shall have an adequate reward. In the engagement of the officer, qualities commensurate with the duties are required. In the reward, the dignity of the station and the qualities of the officer ought to be estimated. And although in this engagement an officer may dispense of certain forms of trial, yet he can never surrender a natural right—he cannot engage to be punished without being guilty, or dismissed without being useless. It has been well observed that the appointment ought to cease when the causes of it no longer exist. But it is equally clear that it ought to continue as long as the reasons remain. And although in public and private life it may be proper to discharge an agent without divulging the reason, yet clearly a good reason ought to precede the dismission, because otherwise you do an act of injustice by a breach of contract. * * *

"It has been judged by some gentlemen a dreadful affair that the President should become a party before the Senate. It would degrade his dignity. It was said

the judiciary would be pleased if this weighty question could be taken off their hands. To what a hight do gentlemen exalt that character in their own minds! How far above the level of the people, when they consider it derogatory to his dignity to institute an examination into the conduct of an officer next to himself in rank! when they consider it almost above human nature to determine a question of right between the President and a great officer of the United States. If gentlemen have an idea that this character is to have such a degree of elevation above the community, it is time to think of restraining his power.* On what does power depend? Not on the strength of arm, but opinion. If gentlemen will exalt a character above themselves, call him what you will, he will be possessed of monarchy.

"We have expended our treasure, our blood, and our time to very little purpose if we do not think that liberty and safety exalt the human species. From the meanest to the highest rank in life, the propriety of conduct arises from the security and independence of situation. * * *

"If a man is a candidate for an office held by the tenure of will and pleasure, he must examine his soul and see if there are qualities in him to enable him to cringe and submit to the arbitrary mandate of the President. If he finds these qualities in his disposition, he is suited for the business. But if the Constitution is to be justly administered, and he finds himself disposed

* Mr. Stone, so far as I know, is the first American to make this suggestion. It is fitting that the author of such a clear, profound, and prophetic argument should have this honor. A worthy President is entitled to the support, good-will, and even love of the people, but he is no better as a man than any other worthy citizen. Further, respectful criticism of the President's official acts is always in order, even by officeholders. Intelligent criticism is often useful.

to sacrifice to the pleasure of the Chief Magistrate, although he possesses qualities which suited him for his employment, yet he is unfit for the office."

Thomas Tudor Tucker of South Carolina said (pp. 584, 585): "I am embarrassed on this question, as the yeas and nays are called, because the vote is taken in such a manner as not to express the principles upon which I vote. In the Committee of the Whole I voted for striking out the words that are now proposed to be struck out, and my reason was I was doubtful whether it was proper to vest, on this occasion, the power in the President alone. It appears to me that the power is not necessarily vested in the President by the Constitution; neither in the President and Senate. I find no words that fix this power precisely in any branch of the government. It must, however, by implication be in the Legislature, or it is nowhere until the Constitution is amended. * * * I apprehend a law is necessary in every instance to determine the exercise of the power. In some cases it may be proper that the President alone should have it. I am not clear in my own mind what general rule, if any, can be established on this subject. Perhaps in other cases it may be lodged with the President and Senate; or it may be given to the heads of departments. But whosoever is invested with it, it must be in consequence of a law; and the Legislature have a right to vest it where they please."

Mr. Tucker closed his speech by saying, among other things, that perhaps it would be out of order to change the word *remove* to *suspend*.*

* Mr. Tucker, some weeks after the close of the debate, moved the consideration of numerous amendments to the Constitution, among them the following (p. 762): "Art. ii, Sec. 4, clause 3. At the end add these words: He shall also have power to suspend from his office, for a time

Thomas Sumter of South Carolina said (p. 591): "This bill appears to my mind so subversive of the Constitution, and in its consequences so destructive to the liberties of the people, that I cannot consent to let it pass without expressing my detestation of the principle it contains. I do it in this public manner in order to fulfill what I think to be my duty to my country, and to discharge myself of any concern in a matter that I do not approve."*

The bill passed the House by a vote of 29 to 22, and went to the Senate on the 14th of July. As before said, the words "to be removable by the President," had been amended to read: "whenever the said principal officer shall be removed from office *by the President of the United States*, the chief clerk shall, during the vacancy, have charge and custody," &c. It was moved to strike out the italicized words. The debate lasted nearly four days, only one day less than that in the House. The vote was a tie (9 to 9), but as Vice-President Adams† voted in the negative, the words stood. The Senate's action was disinterested if not

not exceeding twelve months, any officer whom he shall have reason to think unfit to be intrusted with the duties thereof; and Congress may by law provide for the absolute removal of officers found to be unfit for the trust reposed in them."

Also the following: "Art. i, Sec. 6, clause 2. Amend to read thus: No person having been elected, and having taken his seat as a Senator or Representative, shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States."

* The world owes Mr. Sumter more than is apparent in the above remarks. Twice during the five days' debate he appealed to the House to postpone calling the yeas and nays in order to give the subject a full and free discussion.

† Mr. Adams thought the Senate ought not to confirm appointments, as it would lessen the responsibility of the President, turn public attention to and excite ambition in the Senate, &c. (Works, vi, 433.)

patriotic, for it delegated a power to the President which by implication at least belonged to itself and the President. The Senate sat with closed doors from 1789 till 1795, "with a single exception, through all legislative as well as executive transactions." But Vice-President Adams kept notes for at least one day (July 15), and it is to him that the world is indebted for the following glimpse of what must have been a very instructive debate ("Works of John Adams," vol. iii, pp. 408 to 412).

NOTES OF ONE DAY'S DEBATE IN THE SENATE.

Charles Carroll of Maryland: "The executive power is commensurate with the legislative and judicial powers.

"The rule of construction of treaties, statutes, and deeds.

"The same power which creates must annihilate. This is true where the power is simple, but when compound, not.

"If a Minister is suspected to betray secrets to an enemy, the Senate not sitting, cannot the President displace nor suspend?

"The States-General of France demanded that offices should be during good behavior.

"It is improbable that a bad President should be chosen; but may not bad Senators be chosen?

"Is there a due balance of power between the executive and legislative, either in the general government or State governments?

"*Montesquieu.* English liberty will be lost when the legislative shall be more corrupt than the executive. Have we not been witnesses of corrupt acts of Legislatures, making depredations? Rhode Island yet perseveres."

Oliver Ellsworth of Connecticut: "We are sworn to support the Constitution.

"There is an explicit grant of power to the President which contains the power of removal. The executive power is granted; not the executive powers hereinafter enumerated and explained.

"The President, not the Senate, appoints; they only consent and advise.

"The Senate is not an executive council; has no executive power.

"The grant to the President express, not by implication."

Pierce Butler of South Carolina: "This power of removal would be unhinging the equilibrium of power in the Constitution.

"The Stadtholder withheld the fleet from going out, to the annoyance of the enemies of the nation.

"In treaties, all powers not expressly given, are reserved. Treaties to be gone over, clause by clause, by the President and Senate together, and modeled.

"The other branches are imbecile; disgust and alarm; the President not sovereign; the United States sovereign, or people or Congress sovereign.

"The House of Representatives would not be induced to depart, so well satisfied of the grounds."

Senator Ellsworth again: "The powers of this Constitution are all vested; parted from the people, from the States, and vested, not in Congress, but in the President.

"The word sovereignty is introduced without determinate ideas. Power in the last resort. In this sense the sovereign executive is in the President.

"The United States will be parties to a thousand suits. Shall process issue in their name versus or for themselves?

"The President, it is said, may be put to jail for debt."

Richard Henry Lee of Virginia: "United States merely figurative, meaning the people."

William Grayson of Virginia: "The President is not above the law; an absurdity to admit this idea into our government. Not improbable that the President may be sued. Christina II of Sweden committed murder. France excused her. The jurors of our lord, the President, present that the President committed murder. A monarchy by a side wind. You make him *vindex injuriarum*.* The people will not like 'the jurors of our lord, the President,' nor 'the peace of our lord, the President,' nor his dignity; his crown will be left out. Do not wish to make the Constitution a more unnatural, monstrous production than it is. The British Court is a three-legged stool; if one leg is longer than another, the stool will not stand.

"Unpalatable; the removal of officers not palatable. We should not risk anything for nothing. Come forward like men, and reason openly, and the people will hear more quietly than if you attempt side winds. This measure will do no good, and will disgust."

Senator R. H. Lee again: "The danger to liberty greater from the disunited opinions and jarring plans of many than from the energetic operations of one. Marius, Sylla, Cæsar, Cromwell trampled on liberty with armies.

"The power of pardon; of adjourning the Legislature.

"Power of revision sufficient to defend himself. He would be supported by the people.

"Patronage gives great influence. The interference more nominal than real.

* An avenger of injury.

"The greater part of power of making treaties in the President.

"The greatest power is in the President; the less in the Senate.

"Cannot see responsibility in the President or the great officers of state.

"A masked battery of constructive powers would complete the destruction of liberty.

"Can the Executive lay embargoes, establish fairs (*sic*), tolls, &c.?

"The Federal government is limited; the legislative power of it is limited; and therefore the executive and judicial must be limited.

"The Executive not punishable but by universal convulsion, as Charles I.

"The legislative in England not so corrupt as the executive.

"There is no responsibility in the President or ministry.

"*Blackstone.* The liberties of England owing to juries. The greatness of England owing to the genius of that people.

"The Crown of England can do what it pleases, nearly.

"There is no balance in America to such an Executive as that in England.

"Does the executive arm mean a standing army?

"Willing to make a law that the President, if he sees gross misconduct, may suspend *pro tempore*."

William Paterson of New Jersey: "Laments that we are obliged to discuss this question; of great importance and much difficulty.

"The executive coextensive with the legislative. Had the clause stood alone, would not there have been a devolution of all executive power?

"Exceptions are to be construed strictly. This is an invariable rule."

Senator Grayson again: "The President has not a continental interest, but is a citizen of a particular State. A K. of E. otherwise; K. of E. counteracted by a large, powerful, rich, and hereditary aristocracy. Hyperion to a satyr.

"Where there are not intermediate powers, an alteration of the government must be to despotism.

"Powers ought not to be inconsiderately given to the Executive without proper balances.

"Triennial and septennial Parliaments made by corruption of the Executive.

"Bowstring.* General Lally.† Brutus's power to put his sons to death.

"The power creating shall have that of uncreating. The Minister is to hold at pleasure of the appointer.

"If it is in the Constitution, why insert it in the law? Brought in by a side wind, inferentially.

"There will be every endeavor to increase the consolidatory powers; to weaken the Senate and strengthen the President.

"No evil in the Senate participating with the President in removal."

George Read of Delaware: "The President is to take care that the laws be faithfully executed. He is responsible. How can he do his duty or be responsible, if he cannot remove his instruments?

"It is not an equal sharing of the power of appoint-

* A Turkish instrument of death.

† Thomas A. Lally, a French soldier, who distinguished himself in 1757–58 by making a plucky but unsuccessful expedition against England's East Indian possessions, was born in Romans, Dauphiny, in 1702 and beheaded in Paris in 1766. Through the efforts of his son, the trial was revised and the sentence finally reversed in 1778.

ment between the President and Senate. The Senate are only a check to prevent impositions on the President.

"The Minister an agent, a deputy to the great Executive.

"Difficult to bring great characters to punishment or trial.

"Power of suspension."

William S. Johnson of Connecticut: "Gentlemen convince themselves that it is best the President should have the power, and then study for arguments.

"Exceptions. Not a grant. Vested in the President would be void for uncertainty. Executive power is uncertain. Powers are moral, mechanical, material. Which of these powers? What executive power? The land; the money; conveys nothing. What land? what money?

"Unumquodque dissolvitur eodem modo quo ligatur.*

"Meddles not with the question of expediency.

"The executive wants power by its duration and its want of a negative, and power to balance. *Federalist.*"

Senator Ellsworth asked: "What is the difference between a grant and a partition?"

Ralph Izard of South Carolina: "Cujus est instituere, ejus est abrogare."†

Senator Thomas H. Benton of Missouri, in the report of the Select Committee on amending the Constitution of the United States, made on March 1, 1826, in speaking of the construction put upon the Constitution by the first Congress, says it yielded to the President "the kingly prerogative of dismissing officers without the

* A thing is loosed by the same means by which it is bound.

† He who has the power to institute, has also the power to abrogate.

formality of a trial." (Appendix to Gales & Seaton's "Debates," 1826, vol. ii, pt. ii, p. 132.)

Daniel Webster, in a speech in the Senate, in 1835, on "The Appointing and Removing Power," said (Everett's Webster, iv, 184, 185, 196): "I do not mean to deny, and the bill does not deny, that the President may remove officers at will, because the early decision adopted that construction, and the laws have since uniformly sanctioned it. The law of 1820,* intended to

* The four-years' tenure of office law, the first section of which (practically the whole law) is as follows:

"That from and after the passage of this act all district attorneys, collectors of customs, naval officers, and surveyors of the customs, navy agents, receivers of public moneys for lands, registers of the land offices, paymasters in the army, the apothecary general, the assistant apothecaries general, and the commissary general of purchases, to be appointed under the laws of the United States, shall be appointed for the term of four years; but shall be removable from office at pleasure."

In 1836 all postmasters drawing an annual salary of $1,000 or more were also included in the provisions of the four-years' law.

Thomas Jefferson, writing to James Madison on November 29, 1820, says of this law (vii, 190): "It saps the constitutional and salutary functions of the President, and introduces a principle of intrigue and corruption which will soon leaven the mass, not only of Senators, but of citizens. It will keep in constant excitement all the hungry cormorants for office; render them, as well as those in place, sycophants to their Senators; engage these in eternal intrigue to turn out one and put in another, in cabals to swap work, and make of them, what all executive directories become, mere sinks of corruption and faction."

In reply Mr. Madison says: "The law terminating appointments at periods of four years is pregnant with mischiefs. * * * If the error be not soon corrected, the task will be very difficult, for it is of a nature to take a deep root."

John Quincy Adams, who was till about 1805 an independent Federalist, and afterward an independent Republican, says (Morse's Adams, p. 179): "Efforts had been made by some of the Senators to obtain different nominations, and to introduce a principle of change or rotation in office at the expiration of these commissions, which would make the

be repealed by this bill, expressly affirms the power. * * * At the same time, after considering the ques-

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government a perpetual and unintermitting scramble for office. A more pernicious expedient could scarcely have been devised * * * I determined to renominate every person against whom there was no complaint which would have warranted his removal."

Senator Samuel L. Southard of New Jersey, who, like Webster and others, advocated the repeal of the law, says (G. & S.'s Debates, 1835, vol. xi, pt. i, pp. 421, 422): "The law, as it stood, placed every man who was not above being bribed by office, in the market, feeling and acting on the principle that he was to support the man who would keep him in office. Pass the bill before the Senate and the result will be far different. Each officeholder would be independent, and would look solely to a faithful discharge of his duty for his continuance in office. As the law now stood * * * each one not influenced by pure motives, would say to the Executive: 'Will you retain me in office if I support you?'"

Mr. George William Curtis says (Senate Report No. 576, for 1882, p. 154): "The law of 1820 * * * was introduced in the Senate by a friend of William H. Crawford of Georgia [Mahlon Dickerson], who was a presidential candidate, and it was introduced, as John Quincy Adams, who was then in Washington and in the Cabinet, specifically states, for the purpose of helping Mr. Crawford in his campaign."

Mr. Curtis further says, in one of his annual civil service addresses at Newport, R. I., that the bill was drawn by Mr. Crawford himself.

Mr. Dorman B. Eaton says ("The Term and Tenure of Office," pp. 24, 28): "In that year (1820) William H. Crawford, Secretary of the Treasury, was a presidential candidate, and Van Buren, who was to come into the Senate in 1821 (even then an aspirant for the presidency), was Crawford's supporter. They were unsurpassed for their skillful use of patronage. Both were able to see that if the terms of the inferior officers were reduced to four years, there would be more patronage to dispose of. * * * The four-years' law, for which the only apology was the pretended need of bringing inferior officers to a more frequent and strict account before the people, was followed by 297 defaulting collectors, receivers, &c., reported by the Secretary of the Treasury to the House on March 30, 1838."

But while Mr. Crawford was probably the power behind the throne, and while the law may have been intended by him and a few others for campaign purposes only, there were probably but few statesmen of that

tion again and again within the last six years, I am very willing to say that, in my deliberate judgment, the original decision was wrong. I cannot but think that those who denied the power in 1789 had the best of the argument. * * * I believe it to be within the just power of Congress to reverse the decision of 1789." *

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day who were aware of the fact. A few defalcations set the sensitive statesmen of 1820 to thinking about a remedy, and it may be that they were all caught in Mr. Crawford's four-years' law trap. However this may be, the defalcations spoken of by Mr. Eaton show that the too sensitive statesmen of 1820 made a mistake; in fact, that they got out of the frying-pan into the fire.

Daniel Webster, in the course of his powerful speech on the appointing and removing power, testifies to the conscientiousness of some of the statesmen of 1820. He desired to repeal the four-years' law, but he says: "I agree that it has in some instances secured promptitude, diligence, and a sense of responsibility. These were the benefits which those who passed the law expected from it, and these benefits have in some measure been realized."

Senator David Barton of Missouri says (G. & S.'s Debates, 1830, vol. vi, pt. i, pp. 464, 465): "The legislator of 1820 naturally asked himself what term and tenure of office would attain the desired public security. * * * The evil of the old law was that, while the government was plodding through some tedious process of law, * * * the defaulter could embezzle our funds * * * and escape to Texas, &c., before the process had ascertained whether there was lawful cause for removal or not."

Representative Ames, speaking in the first Congress of the slow process of removal by impeachment, predicted this precise result. He said: "While we are preparing the process, the mischief will be perpetrated, and the offender will escape."

* In a speech at Worcester, Mass., in 1832, Mr. Webster thus criticised President Jackson's official nominations and the patronage system (i, 262): "Within the last three years more nominations have been rejected on the ground of 'unfitness' than in all the preceding forty years of the government. And these nominations, you know, sir, could not have been rejected but by votes of the President's own friends. * * * In some not a third of the Senate, in others not ten votes, and in others not a single vote could be obtained. * * * All this, sir,

Henry Clay says (Colton's "Speeches of H. Clay," ii, 20): "No one can carefully examine the debate in the House of Representatives in 1789 without being struck with the superiority of the argument on the side of the minority, and the unsatisfactory nature of that of the majority. How various are the sources whence the power is derived! Scarcely any two of the majority agree in their deduction of it."

John C. Calhoun says (ii, 430): "I was struck, on reading the debate, with the force of the arguments of those who contended that the power (of removal) was not vested by the Constitution in the Executive.

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is perfectly natural and consistent. The same party selfishness which drives good men out of office will push bad men in. Political proscription leads necessarily to the filling of offices with incompetent persons, and to a consequent mal-execution of official duties. And in my opinion, sir, this principle, * * * unless the public shall effectually rebuke and restrain it, will entirely change the character of our government."

Again, in his speech on the appointing and removing power, Mr. Webster thus philosophizes concerning the evils of patronage (iv, 180, 183): "The unlimited power to grant office and to take it away gives a command over the hopes and fears of a vast multitude of men. It is generally true that he who controls another man's means of living controls his will. Where there are favors to be granted there are usually enough to solicit for them; and when favors once granted may be withdrawn at pleasure, there is ordinarily little security for personal independence of character. The power of giving office thus affects the fears of all who are in and the hopes of all who are out. Those who are 'out' endeavor to distinguish themselves by active political friendship, by warm personal devotion, by clamorous support of men in whose hands is the power of reward; while those who are 'in' ordinarily take care that others shall not surpass them in such qualities or such conduct as are most likely to secure favor. They resolve not to be outdone in any of the works of partisanship. The consequence of all this is obvious.

"Men in office have begun to think themselves mere agents and servants of the appointing power, and not agents of the government or the country."

To me they appeared to be far more statesman-like than the opposite arguments, and to partake much more of the spirit of the Constitution."

Again, in speaking of the powers of the President, Mr. Calhoun says (i, 219, 220): "I do not add the power of removing officers, the tenure of whose office is not fixed by the Constitution, which has grown into practice; because it is not a power vested in the President by the Constitution, but belongs to the class of implied powers, and, as such, can only be rightfully exercised and carried into effect by the authority of Congress."

Chancellor James Kent, speaking of the decision of the Congress of 1789, says ("Commentaries," i, 344): "This question has never been made the subject of judicial discussion; and the construction given to the Constitution in 1789 has continued to rest on this loose, incidental, declaratory opinion of Congress, and the sense and practice of government since that time. It may now be considered as firmly and definitively settled, and there is good sense and practical utility in the construction. It is, however, a striking fact in the constitutional history of our government that a power so transcendent as that is, which places at the disposal of the President alone the tenure of every executive officer appointed by the President and Senate, should depend upon inference merely, and should have been gratuitously declared by the first Congress in opposition to that high authority of the Federalist,* and should have been supported or acquiesced in by some of those distinguished men who questioned or denied the power of Congress even to incorporate a national bank."

Joseph Story, LL.D., says ("Exposition of the Constitution," N. Y. Ed., 1881, p. 175): "If we connect

* Alexander Hamilton.

this power of removal * * * with another power, which is given in the succeeding clause, to fill up vacancies in the recess of the Senate, the chief guards intended by the Constitution over the power of appointment may become utterly nugatory. A President of high ambition and feeble principles may remove all officers, and make new appointments in the recess of the Senate; and if his choice should not be confirmed by the Senate, he may reappoint the same persons in the recess, and thus set at defiance the salutary check of the Senate in all such cases."

Senator George H. Williams of Oregon says (Supplement to Cong. Globe, 1868, p. 458): "Concerning the decision of 1789, * * * it may be said that it was brought about by the arguments of James Madison in the House and the casting vote of Vice-President Adams in the Senate, both of whom at the time expected to fill the executive office, and both of whom, it has been said, looked upon a contrary decision as expressing a want of confidence in the then administration of Washington.* Experience has demonstrated its mischievous and corrupting tendencies and effects."

* The same reasons may have influenced Thomas Jefferson also. At the request of President Washington he wrote an "opinion whether the Senate has a right to negative the 'grade' he (the President) may think it expedient to use in a foreign mission as well as the 'person' to be appointed," in the course of which he said ("Works of John Adams," iii, 576): "The Senate is not supposed by the Constitution to be acquainted with the concerns of the executive department. It was not intended that these should be communicated to them; nor can they therefore be qualified to judge of the necessity which calls for a mission to any particular place, or of the particular grade, more or less marked, which special and secret circumstances may call for. All this is left to the President. They are only to see that no unfit person is employed."

The original manuscript of this Opinion was found among President Adams's papers. As he was Washington's successor in office, the latter probably gave it to him for reference. It is not in Jefferson's own works.

Representative Chilton Allan of Kentucky says (G. & S.'s Debates, 1833–34, vol. x, pt. iii, pp. 3354–56): "The first fatal error that crept into our system of government was the power conferred in 1789 upon the President to remove public officers—a power given to the popularity of President Washington, and which he never abused—a power that remained harmless in the statute book for forty years. This power has been called up from its long slumber. It has displayed its character. * * * The power of removal for opinion's sake at once saps the foundation of republican government and introduces the spirit of monarchy. * * * This power of removal, in its origin, was not intended to go further than to the removal of officers for whose conduct the President is immediately responsible. But of late the broad ground is taken that he can command and remove those for whose conduct he is not responsible."

The foregoing criticisms of the decision of the first Congress express the prejudice rather than the deliberate judgment of the critics. President Jackson's wholesale removals created such a profound impression on the statesmen of his day, that even Mr. Webster admitted that they may have biased his judgment. This must have been true, for otherwise how could such a statesman fail to commend the profound arguments of the majority in the great debate, some of which experience has proved to be true?

The American people are possessed of an inherent fear of monarchical power. But they came by it honestly, for it is hereditary, having been transmitted down from the forefathers. In further proof of this fact, let the following extracts from the speeches and writings of President Jackson's contemporaries speak for them-

selves. They do not all refer directly to the power of removal, but, like the preceding criticisms, they show the same fear and dislike of monarchical power and the same prejudice caused by President Jackson's removals. The speakers all feared and some predicted direful future results. They were greatly alarmed at the prospect of a corrupt President. A corrupt President would be a calamity. But the President is so beset as it were by constitutional checks, the most potent perhaps being the power of impeachment, that no permanent injury need be feared unless the people as well as the President become corrupt. Besides the constitutional checks, the President nowadays is so engaged in the transaction of legitimate business that he has but little time to concoct conspiracies. Further, political conspiracies, comparatively speaking, are rare in this country. They are in fact opposed to the genius of American institutions. But in spite of all this, the wise words of the far-seeing statesmen of 1789 and 1829 cannot be too carefully weighed or too much heeded

Senator David Barton of Missouri says (G. & S.'s Debates, 1829–30, vol. vi, pt. i, pp. 368, 462): "He denied that in any cases, except the Cabinet officers, the Federal officers were ever intended to be rendered the servile creatures of the Executive, * * * but were intended to be freemen, looking to the faithful performance of their duties and to the protection of the Senate and the laws for their offices. It was fit that the officers of a despot should live or die by the breath of their master. That suited such form of government. Not so in a republic—a government of law. * * * If this abuse of the offices be tolerated, history will tell posterity that a combination of aspirants destroyed the constitutional liberties of the United States by the usual gradations of tyranny and bribery,

as was feared and deprecated by the Father of his Country!"

Senator George M. Bibb of Kentucky, speaking of President Jackson's "Protest,"* and of the power of removal, says ("Debates," 1833–34, vol. x, pt. ii, pp. 1499, 1513): "The power of removal of officers, although not expressly limited by the Constitution to any particular specified causes, is yet qualified and regulated by the public uses and benefits for which it was conferred, and is abused and perverted when exercised to * * * subserve selfish ambition. * * * He (the President) makes and unmakes at his pleasure. 'This is my will, and that is your duty. I take the responsibility. Obey me, or I dismiss you, and supply your place by one whose opinions are well known to me.' Can it be true? Does any free man believe that all officers, subject to removal, are also subject to the order and direction of the President in the exercise of the duties and trusts which their offices impose, and which they are bound by oath to execute faithfully? Is the President the sole interpreter of the Constitution and laws for them? * * * This prerogative power far exceeds any possessed by the King of England, for there it is an established maxim that 'no man shall dare assist the Crown in contradiction to the laws of

* President Jackson's "Protest," which was really an argument in defense of his course in removing the deposits in the United States Bank, was brought out by the following resolution, which was introduced by Senator Clay:

Resolved, That the President, in the late executive proceedings in relation to the public revenue, has assumed upon himself authority and power not conferred by the Constitution and laws, but in derogation of both.

This resolution was expunged from the journal January 16, 1837, by a vote of 24 to 19.

the land.' * * * They (the writers of the Protest) might have learned from the speeches and writings of the wise and virtuous of ancient and modern times that no government is well constituted 'unless the laws prevail above the commands of men.'"*

Representative George McDuffie of South Carolina says (Debates, vol. x, pt. iii, pp. 3454, 3455): "I have deemed it important to speak thus distinctly on the dismissing power, because I have a deep and solemn conviction that if Congress does not interpose, speedily and effectually interpose on this subject, the day is not distant when this government will sink into deep corruption and absolute monarchy. * * * If you bring all the offices of this government into the political market as the legitimate 'spoils of victory;' if every aspirant to the presidential office inscribes on his banner this celebrated motto to animate his partisans, is not the whole mass of the offices and patronage of your government converted into a mighty fund of corruption, sufficient to purchase an imperial crown, and which no human contrivance can permanently resist? Mr. Speaker, the immense patronage of this government, under this new doctrine of the absolute right of every new President to discharge all the incumbents from office at his mere will and pleasure, to make way for his partisans, is a power I would not trust in the hands of an angel, if there were an angel in human form."

* Senator Bibb further says: "One of the great securities for liberty consists in the division of the powers of government. Thus safety in legislation is consulted by having many Senators and many Representatives. Safety in the judicial department is consulted by having a plurality of judges. So the safety in the executive department consists in distributing the powers into numerous compartments, subjecting each officer to a personal responsibility, and to the law; whereby a government of laws is created, and not a government at the will of one man." (p. 1514.)

Senator John Tyler of Virginia says (Debates, vol. x, pt. i, pp. 672, 673): "Is the presidential power only to be considered dangerous when he (the President) is at the head of an army? Patronage is the sword and the cannon by which war may be made on the liberty of the human race. * * * If the offices of the government shall be considered but as 'spoils,' to be distributed among a victorious party, then indeed, sir, the consequences are most fatal. All stability in government must be at an end. Novices are introduced in the place of long-tried, experienced, and faithful public agents, and the public interests necessarily suffer, and suffer severely."

Senator Peleg Sprague of Maine says (p. 388): "Since the political victory of 1828, the vultures have been screaming over the battle-field, and 'even the cries of the widows and the orphan' could not scare them from their prey. A spirit of proscription for opinion's sake, scarcely paralleled in the annals of free governments, has swept in terror over the land, prostrating the purest and the best, breaking down the independent, bending the feeble, and leaving the timid, like trembling slaves, to eat their bread in fear. Veteran soldiers of the Revolution have been sacrificed for daring to exercise the freedom for which they fought! Officers of the late war, Republicans of '98, patriots at all times, have been punished for daring, in a republican country, to breathe the language of freemen!"

Senator Samuel L. Southard of New Jersey says (pp. 161, 162): "I do not mean at this time to discuss the existence of the power of dismission, or to question its constitutionality. * * * The spoils of party * * * are the triumphs of corruption over virtue and the Constitution. The power of dismission, if to be exercised at all, should be exercised for competent cause; and

that competent cause must exist in the law, and by the commands of the law; must be connected with the actual discharge of the duties required by law; to prevent the performance of acts expressly forbidden by law; to secure the performance of acts expressly commanded by law; to relieve from fraud and mental incapacity to discharge the duties arising under circumstances which could not otherwise be controlled. * * * There is not a man on earth to whom I would confide it in the extent now claimed by the advocates of the Executive."

Representative William F. Gordon of Virginia says (Debates, vol. xi, pt. ii, pp. 1282, 1285, 1286): "I verily believe * * * the wise and patriotic framers of our Constitution have unintentionally given to the executive power a fearful and dangerous ascendency, which makes it an overbalance to all the other departments of government. * * * Patrick Henry* uttered this sententious maxim of political wisdom: 'When you give power, you know not what you give.' * * * We may all very plainly see that the contest for the executive office is the rock on which the permanency of this republic is likely to be wrecked; and the vehemence of this contest will ever be in proportion to the executive patronage. * * * I desire to limit and restrain the executive patronage."

* Mr. Henry's words were spoken in the Virginia Convention of 1788, the Convention that adopted the national Constitution. Speaking of the Constitution, Mr. Henry said (Wirt's "Life of Patrick Henry," p. 296): "This Constitution is said to have beautiful features. When I come to examine these features, sir, they appear to me horribly frightful! Among other deformities, it has an awful squinting. It squints toward monarchy! * * * Your President may easily become King."

Mr. Henry opposed the adoption of the Constitution with more eloquence than reason. But despite his and other men's eloquence it was adopted by a vote of 89 to 79.

Albert Gallatin, one of the founders of the government, and for fourteen years Secretary of the Treasury under Jefferson and Madison, in a letter to his wife, dated Washington, May 2, 1829, says (Adams's Gallatin, p. 633): "On every occasion I have freely expressed my entire disapprobation of the system of removal for political opinions."

Senator Samuel Smith of Maryland says (Debates, 1831–32, vol. viii, pt. i, p. 1363): "I am opposed to removals from office for opinions declared. But, sir, I would remove any officer who made use of his office to force inferiors to act contrary to their wishes. I would remove every postmaster who had been known to frank the 'coffin handbills,' or any other abusive papers of either of the candidates."

Senator Thomas Ewing of Ohio says (Debates, vol. x, pt. ii, p. 1416): "I will advise and consent to the appointment of no man, to any office, who has earned that appointment in the arena as a political gladiator. And I will advise and consent to the reappointment of no man to any responsible office who, while he held that office, abused it to the mere purposes of party, instead of using it for the benefit of his country. * * * At the same time I would inquire into no man's political opinions or personal preferences. It is a gross abuse that such inquiries have ever been made in appointments to office."

Senator Hugh L. White of Tennessee says (Debates, vol. xi, pt. i, pp. 488–9): "It is asked by the opponents of this bill what benefit its friends expect from a statement of the reasons of the removal when the nomination of a successor is presented to the Senate. I answer for myself, I wish to cut up by the roots the demoralizing tendencies of office-hunting. * * * Under the present state of things * * * office-hunting will become

a science. Men will be selected and furnished with funds to defray the expense of coming to Washington for the purpose of having one set turned out and another set put in, by means of artful tales, secretly gotten up and reduced to writing, which it is supposed will never see the light. This officer and representative of office-hunters will come on with one pocket full of bad characters, with which to turn out incumbents, and the other filled with good characters, with which to provide for his constituents. * * * Require the reasons for removal to be stated, and no man will dare to make a statement which he does not believe to be true, because exposure and disgrace will certainly be the consequence. You will take out of the hand of the cowardly assassin the poisoned dagger heretofore used in the dark. You will shield the Executive against mistakes founded on false representations."

Senator Benton, chairman of a Committee on Executive Patronage, in a report made on May 4, 1826, says (Appendix to G. & S.'s Debates, vol. ii, pt. ii, p. 133): "In coming to the conclusion that executive patronage ought to be diminished and regulated on the plan proposed, the Committee* rest their opinion on the ground that the exercise of great patronage in the hands of one man has a tendency to sully the purity of our institutions and to endanger the liberties of the country. This doctrine is not new. A jealousy of power,† and of the influence of patronage, which must always accompany its exercise, has ever been a distinguished

* The Committee consisted of Senators T. H Benton of Missouri, Nathaniel Macon of North Carolina, Martin Van Buren of New York, Hugh L. White of Tennessee, William Findlay of Pennsylvania, Mahlon Dickerson of New Jersey, John Holmes of Maine, Robert Y. Hayne of South Carolina, and Richard M. Johnson of Kentucky.

† Compare with page 166.

feature in the American character. It displayed itself strongly at the period of the formation and of the adoption of the Federal Constitution. * * * Nothing could reconcile the great men of that day to a Constitution of so much power but the guards which were put upon it against the abuse of power. Dread and jealousy of this abuse displayed itself throughout the instrument. To this spirit we are indebted for the freedom of the press, trial by jury, liberty of conscience, freedom of debate, responsibility to constituents, power of impeachment, the control of the Senate over appointments to office."

The American jealousy of power is still further illustrated by the following extracts from speeches in the United States Senate in 1826.*

Senator John Branch of North Carolina says (Debates, vol. ii, pt. i, pp. 386, 387): "It is time to reenact Magna Charta. It is time to reassert the principles of the Declaration of Independence. * * * Are we dependent on the whim, or caprice, or courtesy of the President for power? * * * The Senate was wisely designed to act as a check on the appointing power. * * * It is intended, I trust, to be perpetual. It was so designed. But I have the most awful forebodings that it will not be. * * * It (the Constitution) may not prove an adequate protection against the insidious encroachments of ambitious leaders."

Senator John Randolph of Virginia says (p. 392): "Since the revolution of 1801, the practice has been settled that the Secretary of State shall succeed the

* These speeches were the result of a special message from President John Q. Adams, wherein he claimed the independent right to appoint a representative to a "Congress of American Nations, to be assembled at Panama." But out of courtesy to the Senate, he did not exercise the alleged right.

President. Hence it is that the Secretaryship of State has been the apple of discord under all administrations succeeding that of Mr. Jefferson. It was the bone of contention between Mr. Gallatin and Mr. Robert Smith. There are more here besides myself (looking at Mr. Macon) that know it. It has been the apple of discord, ay, and of *concord* too, sir, since. It has been the favorite post and position of every bad, ambitious man, whether apostate Federalist or apostate Republican, who wishes to get into the presidency, * * * 'honestly if they may, corruptly if they must.' It has been that which Archimedes wanted to move the world, * * * 'a place to stand upon,' ay, and to live upon too, sir, and, with the lever of patronage, to move *our* little world."

Senator Littleton W. Tazewell of Virginia says (p. 602): "I utterly deny the correctness of this doctrine, which seeks to create a new, substantive, and fruitful source of power, in existing or future Presidents, from the past practices of their predecessors. And I deny more strongly, if I may do so, the authority to enlarge the volume of power issuing from this newly discovered fountain by the process of induction and reasoning by analogy. Let it be once granted that the practice of one President gives a legitimate authority to his successor, and that this authority may be enlarged by analogies, and it must be obvious to all that the power granted by the people to the Executive, although made by the Constitution but a school-boy's snow-ball, in a few turns would become a monstrous avalanche, that must one day crush themselves."

Senator John Chandler of Maine says (pp. 633, 634, 635): "Hardly a session of Congress passed but what some power, some patronage was gained by the Executive. * * * In this government the departments

were to balance each other. How was this balance to be kept up? Not by constantly increasing the power of one department of the government; but the House of Representatives should take care of the portion committed to them, the Senate theirs, and the President his. * * * Balance anything. Get a rail and play at *see-saw*. Give one a little more than the other, and away he would go. So it was with these powers. Give one of them only a hair's breadth more than it ought to have, and the balance would be destroyed. * * * Governments were made on the suspicion that all those who had power would go wrong."

The forefathers not only had reason to be jealous of power, but they had reason to complain of the evils of the patronage system many years before the Declaration of Independence. Sir Thomas Erskine May, in his "Constitutional History of England since the Accession of George III," says that many of the colonial officeholders sent from England were of little account—were thought to be good enough for the colonies, but not for England.* The most lucrative colonial salary, he says, would often be earned by deputy. He quotes a letter of Lieutenant General John Huske, written in 1758, as follows (ii, 529):

"As to civil officers appointed for America, most of the places in the gift of the Crown have been filled with broken members of Parliament, of bad, if any, principles—*valets-de-chambre*, electioneering scoundrels, and even livery servants. In one word, America has been for many years made the hospital of England."

* Such men were more mischievous in a colony than at home. * * * To allay discontent, the government finally surrendered to the local Governors all appointments under £200 a year, to be filled from among the citizens of the several colonies.—E. F. WATERS.

CHAPTER IX.

COMPARATIVE POLITICAL ECONOMY.

Its Utility.—The Civil Service Systems of England, Canada, British India, Germany, France, Sweden, Norway, and China.

A SHORT account of the civil service laws and customs of a few representative nations is a fitting conclusion to this book. Comparative political economy, past as well as present, is a useful and instructive study. It ought to be made a distinct branch of study in all governments, for it is full of information and promise. Like comparative anatomy (and pathology also, for nations suffer with diseases as it were), it reveals new sources of light. It is as broad as the earth itself, and as various as the divisions and subdivisions of men. If the combined wisdom of the world does not at least approximate perfection, what will?* The bigot and the narrow-minded man only will reject useful laws or regulations because they were originated in England, France, China, or India. The time may come when it will be said of the United States of 1888, "They had only the fragment of a government, for they either rejected or were ignorant of the wisdom of other nations." What would be thought of a nation that rejected the telegraph because it had its origin in another nation? Washington's recommendation, which was approved by Jefferson, of the establishment of a National Univer-

* Let us avail ourselves of the wisdom and experience of former ages. Let us aggregate the knowledge of every nation.—JOHN VINING.

sity for "the education of our youth in the science of government" was certainly a wise one.

The English civil service law is much like our own; but it contains provisions that ours does not, namely. Preliminary examinations are held for the purpose of weeding out those who are "too stupid or ignorant to have a chance on a competitive trial." Pensions are granted, provided the official has served ten years—one sixtieth of the original salary being allowed for ten years of service, and an additional sixtieth for each succeeding year till the fortieth, when the increase stops. Pecuniary embarrassment, caused by an officeholder's imprudence, forfeits "that honorable position in the service which is necessary to give him a claim to promotion or increase of salary from length of service." There is a "movable clerical force of all work," that goes "from department to department, as convenience may require." These salutary regulations are worthy of imitation.

Mr. Dorman B. Eaton says that promotion examinations for the customs service were begun in England by Lord Liverpool in 1820; that non-competitive examinations were begun by Lord Melbourne between 1834 and 1841, but that "the decisive part of the contest between patronage and open competition was between 1845 and 1855, though the victors did not take possession of the whole field until 1870." Lord Melbourne favored competitive examinations, but they were thought to be "too great an innovation to begin at once." The order for the competitive system of examination was issued on May 21, 1855.

In Canada an act was passed in 1882 providing for non-competitive civil service examinations. It was amended in 1883, '84, '85, '86, '88, and '89. The examinations are (1) *preliminary*, for lower grade offices;

(2) *qualifying*, for clerkships and higher grade offices; (3) *promotion*, for those already in the service. These examinations are held once a year, the two former in November, the last in May. The examinations are held simultaneously throughout the Dominion, and are conducted by subexaminers. The written papers are transmitted to the Board of Examiners at Ottawa, where they are examined and valued. The successful candidates in the preliminary and qualifying examinations receive certificates and have their names printed in the *Official Gazette*. Candidates who pass the preliminary examination, have the option of taking the qualifying one also. The examinations embrace the elementary branches of education, but candidates are permitted to take certain prescribed optional subjects. These are translating English into French and French into English, book-keeping, short-hand, type-writing, and 'précis' writing. The last consists in condensing the salient points of reports, &c., into about a fourth of the printed matter. For the *inside service*, that is, for those employed in the different departments at Ottawa (the capital), there is an additional allowance of $50 per annum for every additional optional subject, not exceeding four, in which a candidate may pass. In most cases an annual increase of salary is allowed, but it cannot exceed the prescribed limit of the respective classes. Having reached this limit, it remains stationary until the candidate is promoted to a higher class. When a vacancy occurs in a class next above the one in which an employé is serving, he may, on passing the promotion examination, be promoted to it. He thus reaps the advantage of a double increase of salary—(1) by promotion; (2) by annual increase. Examinations are held in either the English or French language, at the option of the candidate. Thirty per cent.

of the marks allowed for each branch of study and fifty per cent. of the aggregate number of marks given to all the subjects must be attained. That is, if there are eight subjects taken, there must be 400 marks made. There is a probationary period of six months, both for original and promotion appointments. The respective ages at and between which all ordinary appointments to the inside service are made are 15, 18, and 35 years—15 for places below that of a third-class clerk; in other cases 18. Deputy Heads of Departments, officers, and employés, whose appointments are of a permanent character, can only be removed from office by authority of the Governor in Council. Employés guilty of misconduct or neglect of duty are suspended without pay till such time as the suspension is removed. There is an *attendance book* in which all employés, under Deputy Heads, are required to record their names every morning, or at such other times as may be required by the Governor in Council.

In a letter dated Ottawa, Canada, September 9, 1887, J. Thorburn, LL.D., Chairman of the Board of Examiners, to whom I am indebted for the foregoing facts in regard to the Canadian civil service system, says:

Dear Sir: The civil service examinations in Canada differ in some important respects from those in Great Britain and in the United States. With us they are only qualifying, not necessarily, when passed, leading to appointments; whereas with you and in England, with a few specified exceptions, they are competitive. In this respect, I am satisfied, you have the advantage of us, for, as is now generally admitted, the more fully the political element is eliminated from them, the better it is for the public service.

Our government has not hitherto seen its way to

adopt a competitive system. It retains the power of selecting any candidate who has passed the examination test, irrespective of his standing as compared with that of others, and the result therefore naturally follows that as soon as an applicant for office finds that he has "passed the Rubicon," he sets to work at once to bring all the pressure, political, social, or religious, that he can obtain to bear upon the different ministers of the Crown, and it will generally be found that the weakest and least deserving of the candidates, conscious of their deficiencies, are those that make the most strenuous and persistent efforts to secure political backing.

Another serious drawback to our qualifying system of examination is to be found in the fact that out of the large number of candidates who every year reach the standard required by the examiners, probably not more than one in twenty has the least prospect of appointment. In course of time therefore we shall have a large army of disappointed aspirants, each one of whom thinks he has some special claim upon the government, waiting for something to turn up, instead of betaking themselves to other avocations of life.

You will see from the copy of the rules and regulations sent to you that we have a promotion examination for those already in the service. This has given rise to considerable opposition, especially on the part of those who have been a long time in the service. The experience, however, of the Deputy Heads has been largely in its favor. It exercises a wholesome and steadying influence on the younger members of the service when they know that they have to *earn* their promotion, instead of relying for it upon the interest and solicitations of influential friends. I find that in England they have a modified form of promotion examinations. These are held at the request of the heads of

the several departments for the purpose of selecting those who are fittest for promotion or reward, but they are not necessarily required by law.

In reply to your question as to the extent of the reform in Her Majesty's dominions, I answer that the system of examination for public offices is in operation in India, New South Wales, Victoria,* South Australia, New Zealand, and Jamaica, and so far as I know, it is found to work satisfactorily. Respectfully yours,

J. THORBURN.

OCTOBER, 1890.—There are now several exceptions to the various examinations, as follows: Graduates of the Royal Military College, Kingston, and of any university in Canada (from qualifying); city postmasters and postoffice inspectors; inspectors, collectors, and preventive officers, Customs Department; inspectors of weights and measures, and deputy collectors and preventive officers, Inland Revenue Department (without examination or reference to rules of promotion); barristers, attorneys, military or civil engineers, artillery officers (militia), and architects, draughtsmen, and land surveyors, when employed or seeking professional promotion. Special examinations are no longer held. Penal clauses were enacted in 1888 against fraudulent practices at examinations—copying from each other, personating, &c.—*J. T.*

The British India civil service law requires strict competitive examinations. It was passed in 1853, two years before the English law. England apparently wished to try an experiment, and began it in India.

"India," says Mr. E. F. Waters, "has a special administration, differing from all the other dependencies of the Crown. Her Governor has larger powers, and

* Sir Charles Wentworth Dilke, Bart., says ("Problems of Greater Britain," London, 1890, p. 121): "The Victorian Civil Service Commission has met with success, and on the rare occasions when members of Parliament have hinted at a desire to revert to their old practices, the voice of the community has at once drowned the whisper of such a suggestion. The civil service, which was at one time a by-word, is now a credit to the colony, and nothing can exceed the average capacity, industry, and trustworthiness of its public servants."

all appointments in the civil, medical, engineering, and artillery services of that immense and densely populated country (150,000,000 people) are based upon competitive examination. * * * Different candidates are examined (according to the different Provinces of India, or the different departments they may wish to enter), in addition to ordinary studies, in jurisprudence, law of evidence, law of India, political economy, history and geography of India, Arabic, Bengali, Hindi, Hindustani, Malayalum, Marathi, Persian, Sanskrit, Tamil, and Telugu."

Mr. D. B. Eaton says that natives of France, Canada, Brazil, and the United States have won appointments in the Indian service.

Non-competitive examinations were held in British India long before 1853, but they were not very successful, notwithstanding the applicants were required to attend Haileybury College for two years. For example, Mr. Eaton says that in the years 1851 to 1854, both inclusive, 437 applicants were examined for commissions in the Indian army. Nearly a third failed in English and a still greater number in arithmetic. This college, which was conducted on the patronage system plan, was abolished in 1854.

In Prussia (Germany) the civil service has been governed since her humiliation in 1806 by the first Napoleon as scientifically perhaps as has her military service, which, in turn, in 1870–71, humiliated the third Napoleon, and one has improved and strengthened the government about as much perhaps as the other.* The following speaks for itself (Cyclopedia of Political Sci-

* Prussia owes it very much to the high order of efficiency which has been introduced into her civil service that she has risen to be one of the first powers in the world. Improvements in administration have hardly been less in France and Great Britain.—C. C. ANDREWS.

ence, iii, 445): "Various services are directly subordinate to the Ministry of State (council of ministers), such as the official journal, the archives, printing, and various others, notably the Commission of Examination for future functionaries. To be a functionary it is necessary to have studied three years at the University, to have passed a period of instruction and preparation for the public service, and to undergo a new examination, called the *state examination*, before the Commission. The candidate then obtains the title of Assessor, which confers the right of being employed and compensated, but some time elapses before a place with the title of Councilor can be had. The functionaries of lower grade and simple employés, are likewise obliged to pass an examination, but the requirements are not so great.

"As to the internal organization of the public services, some are organized into bureaus; that is, they have a chief, a sole functionary, and employés. But most of these services have Councils or Committees, in which the President often has a great preponderance, but in which each Councilor has his powers (*decernat*) clearly defined."

In France the civil service is free of politics and public offices are held during good behavior. Mr. E. F. Waters, who has traveled in France and other parts of Europe, and who was for twenty years an editor of the *Boston Daily Advertiser*, in a pamphlet (issued in 1881) entitled "The Great Struggle in England for Honest Government," says (p. 28): "It is not contended that the English service is the best attainable. The French system is in some respects better. 'It is the result of nearly a hundred years of experience. Every officer in it below Minister of Finance, commenced his service in a clerkship, or some more subor-

dinate position, and the advancement which his fidelity and ability secured has never been hindered by political frowns, or even by political revolutions. His appointment was without partiality, and public examinations have awarded him his promotions.* For more than fifty years a record has been kept of every man's official conduct, as reported by different superior officers. * * * Under such a system, it becomes almost impossible for an unworthy man to work his way to a position where his incompetency or corruption can largely prejudice the reputation of the service, or materially affect the revenue of the empire.'"

In a letter dated October 10, 1887, Mr. Waters further says of the French civil service: "It is bureaucratic, but intelligent, honest, and faithful. Their entire idea is to do their duty, and nothing else, and they take an extreme pride in their position. A common track-guard on a State railway is as proud as a King of his position, and although courteous, is unrelenting in carrying out instructions. Nothing can exceed the courtesy of the higher trained officials."†

Concerning the French diplomatic and consular services Mr. Abram S. Hewitt says (Cong. Record, 1878, p. 1652): "A most elaborate scheme of examination is laid down for admission to the permanent consular and diplomatic services. The examinations embrace international law, diplomatic history, statistics, political economy, geography, and the languages—two modern languages besides their own. * * * Promotion is made from the lower grades of the entire foreign service."

* Compare with page 56, "with or without the President," &c.

† Subordinate officeholders serve one year without pay, but this is compensated by pensions for faithful service. Salaries are "far below what the same service could be procured for in any private business." But, notwithstanding this fact, there is great eagerness for office.

These eminently practical examinations have been in force for about sixty-five years.

In Sweden subordinate public officials and employés are appointed without regard to politics and serve during good behavior. This has been the rule since 1809, the date of the adoption of the present Constitution. Subordinate officials can only be removed after trial, but are suspended immediately on complaint. Experience has shown that any tendency this rule may have to cause disrespect or disobedience is overbalanced by the hope of promotion and better pay, which can only be attained by faithful service. Some of the higher officials, however, can be removed by the King without trial. Again, notwithstanding strict non-competitive examinations for all officials are required, the King, in cases of emergency, can dispense with them. All appointments are made by the King and his Ministers.

It is noteworthy that there are three entirely different sets of distillery inspectors—the *witness*, the *controller*, and the *overcontroller*. One watches the other. All are required to see that no distillery manufactures more than the annual prescribed quantity of liquors. This latter provision, in case the liquor tax is raised, prevents an ingenious swindle. In the United States, for example, when there is talk of increasing the liquor tax, distilleries usually double their manufacture. When the tax is actually raised, little or no liquor is manufactured for about a year. The government thus loses heavily the first year after the increase.

There are two distinct grades of education for public offices in Sweden.* For subordinate offices, such as the

* In Sweden "education is not free except for the poor; but it is obligatory in this sense, that children cannot be admitted to their first communion until they are able to read and write." ("Cyclopedia of Political Science," iii, 838.)

post and customs departments, it is only required that a person shall have graduated at a high school; but for those who wish to enter any of the higher branches of the service, it is necessary to pass at least one of two examinations at the University. There are two high school courses—the practical and the classical. The practical course consists of geography, history, arithmetic, algebra, trigonometry, chemistry, mineralogy, botany, drawing, and the French, English, and German languages. The classical course embraces the Latin, Greek, and Hebrew languages instead of the English and German. It is necessary to pass an examination in one of these courses in order to enter the University. The University course consists of political economy, judicial encyclopedia, the law of nations, Swedish constitutional law, administrative law, the law of private rights, and legal process. There are three University examinations, the preliminary, requiring about a year's study, and the written and oral, requiring from two to two and a half years of additional study. Each answer in the written examination must be wholly impromptu, and must be made in about eight hours. Only those who pass the written examination can enter the oral, which is public, and which also occupies about eight hours. There are two other University courses and kinds of examination, both in law, either of which qualify a person for admission to the civil service, though they are intended more especially as tests for admission to the judicial service.

The respectability of the service is probably the main reason why students devote so much time to study in order to enter it. Further, in some cases the pay is good, and only about six or eight hours' work a day is required. Owing to the long course of study, office-holders are usually 24 years old on entering the service.

An applicant, who must furnish certificates from two reputable persons as to his character, practical ability, &c., is almost invariably appointed first as a 'supernumerary,' at an annual salary of 1,000 crowns (about $270).* After serving for about eight years, on probation as it were, he is promoted to a regular or 'fixed' position, and his salary is increased. After this, promotions to fill vacancies in all ordinary offices usually go to the person who has served longest in the next lower grade. But this is not the case in important offices. In these the only question is as to ability.

There is, in some cases, after five and ten years of service, an annual increase of pay of from about $125 to $150 respectively. There is a practice, peculiar to the Department of Foreign Affairs, of granting 'expectance' pay (about $1,000 a year) to persons temporarily out of diplomatic employment. Pensions are paid to persons of 70 years of age, provided they have served 30 years; and also to persons of 65 years of age, provided they are disabled and have served about 40 years. The annual sum paid is from about $800 to $2,000. There is also a "separate pension establishment for widows and children of persons in the service," the funds for which are raised by assessing the public officers, in addition to which the government annually appropriates about $24,000.†

In Norway the civil service rules are practically the same as in Sweden. "Norway is united with Sweden

* A Swedish crown (kronor, formerly called riksdaler) is equivalent to $0.26.8.

† The facts concerning the civil service of Sweden are based on a report of Minister C. C. Andrews, and were furnished to him, in Swedish, by M. Von Steyern, the Dispatching Secretary and Secretary-in-Chief of the Ecclesiastical Department. (See "Foreign Relations of the United States," 1876, pp. 553 to 564.)

under one sovereign, but according to the terms of its Constitution (adopted November 4, 1814, and revised in 1869), is 'free, independent, indivisible, and inalienable.' The King exercises the executive power through a Council of State, consisting of two Ministers of State and seven Councilors. Two of the Councilors and one Minister reside near the King at Stockholm, and the remainder are at Christiania." In Sweden the government consists of the King and "a Council of State, composed of ten members, two of whom, called Ministers of State, hold the portfolios of Justice and Foreign Affairs, and eight of whom are called Councilors of State." In Norway it is noteworthy that "the railways and telegraphs are the property of the government." I am informed by the Swedish-Norwegian Consul in New York that this is partly the case in Sweden also.*

In China competitive examinations have been in use about 4,000 years. Mr. William A. P. Martin says the system is "the most admirable institution of the Chinese empire." He further says (North American Review, July, 1870, pp. 65, 66, 68, 72, 75, 76): "The germ from which it (the competitive system) sprung was a maxim of the ancient sages, expressed in four syllables, *Kü hien jin neng*—'employ the able and promote the worthy,' and examinations were resorted to as affording the best test of ability and worth. Of Yushun, that model Emperor of remote antiquity, who lived about 2,200 B. C., it is recorded that he examined his officers every third year, and after these examinations either gave them promotion or dismissed them from the service.

"Every third year the government holds a great examination for the trial of candidates, and every fifth

* The words quoted in the above paragraph are from the American Cyclopedia.

year makes a formal inquisition into the record of its civil functionaries. * * * The candidates for office, those who are acknowledged as such in consequence of sustaining the 'initial trial,' are divided into three grades, * * * 'budding geniuses,' 'promoted scholars,' and those who are 'ready for office.'

"We have met an old Mandarin, who related with evident pride how, on gaining the second degree, he had removed with his whole family to Peking, from the distant province of Yunnan, to compete for the third; and how at each triennial contest he had failed, until, after more than twenty years of patient waiting, at the seventh trial, and at the mature age of three-score years, he bore off the coveted prize. He had worn his honors for seven years, and was then Mayor of the city of Tientsin. In a list now on our table of 99 successful competitors for the second degree, 16 are over 40 years of age, 1 62, and 1 83. The average age of the whole number is above 30; and for the third degree the average is of course proportionally higher.

"The political bearings of this competitive system are too important to be passed over, and yet too numerous to be treated in detail. * * * It serves the state as a safety-valve, providing a career for those ambitious spirits which might otherwise foment disturbances or excite revolutions. Whilst in democratic countries the ambitious flatter the people, and in monarchies fawn on the great, in China, instead of resorting to dishonorable acts or to political agitation, they betake themselves to quiet study. They know that their mental caliber will be fairly gauged, and that if they are born to rule, the competitive examinations will open to them a career. The competitive system has not indeed proved sufficient to employ all the forces that tend to produce intestine commotion; but it is easy to perceive

that without it the shocks must have been more frequent and serious.

"It operates as a counterpoise to the power of an absolute monarch. Without it the great offices would be filled by hereditary nobles, and the minor offices be farmed out by thousands to imperial favorites. With it a man of talents may raise himself from the humblest ranks to the dignity of viceroy or premier. *Tsiang siang pun wu chung*, 'the General and the Prime Minister are not born in office,' is a line that every school-boy is taught to repeat. Rising from the people, the Mandarins understand the feelings and wants of the people, though it must be confessed that they are usually avaricious and oppressive in proportion to the length of time it has taken them to reach their elevation. Still they have the support and sympathy of the people to a greater extent than they could have if they were the creatures of arbitrary power. The system therefore introduces a popular element into the government—a check on the prerogative of the Emperor as to the appointment of officers, and serves as a kind of Constitution to his subjects, prescribing the conditions on which they shall obtain a share in the administration of the government. * * * It is the Chinaman's ballot-box, his grand charter of rights. Even the Emperor cannot tamper with it without peril. Though the Emperor may lower its demands, in accordance with the wishes of a majority, he could not set it aside without producing a revolution.

"In districts where the people have distinguished themselves by zeal in the imperial cause, the only recompense they crave is a slight addition to the numbers on the competitive prize list. Such additions the government has made very frequently of late years, in consideration of money supplies. It has also, to relieve

its exhausted exchequer, put up for sale the decorations of the literary orders, and issued patents admitting contributors to the higher examinations without passing through the lower grades. But though the government thus debases the coin, it guards itself jealously against the issue of a spurious currency. Seven years ago Peiching, First President of the Examining Board at Peking, was put to death for having fraudulently conferred two or three degrees. The fraud was limited in extent, but the damage it threatened was incalculable. It tended to shake the confidence of the people in the administration of that branch of the government which constituted their only avenue to honors and office."*

* Mr. Martin, in order to show how strictly the examinations are conducted, says: "The government examinations of China admit about 2,000,000 candidates every year, and pass only 1 per cent." He says that about 2,000 competitors enter the lists for the degree of Budding Geniuses, and that of this number about 20 are successful. But they win honors only; further competition is necessary to attain office. The successful student "is the best of a hundred scholars, exempted from liability to corporal punishment, and raised above the vulgar herd. The social consideration to which he is now entitled makes it a grand day for him and his family." Of the "model scholar of the empire," or "scholar laureate," who is chosen every three years by the Emperor, Mr. Martin says: "Provinces contend for the shining prize, and the town that gives the victor birth becomes noted forever. Swift heralds bear the tidings of his triumph, and the hearts of the people leap at their approach. We have seen them enter a humble cottage, and amid the flaunting of banners and the blare of trumpets, announce to its startled inmates that one of their relations had been crowned by the Emperor as the laureate of the year. And so high was the estimation in which the people held the success of their fellow-townsman, that his wife was requested to visit the six gates of the city, and to scatter before each a handful of rice, that the whole population might share in the good fortune of her household."

Mr. Martin may well ask what could be more democratic than choosing one of the chief officers of a nation of about 400,000,000 people from "a humble cottage," or words to that effect.

"One great defect," says the Encyclopedia Britannica (v, 669), "in the competitive system in China is that there is no limit to the number of candidates, nor to the age when they may go up for examination, and the result is that, what with the surplus victors and the unsuccessful aspirants,* who go on trying year after year until they have become gray-haired old men, there exists a large non-producing class in the community which acts as a dead weight on the national prosperity."

Confucius (551 B.C.), the philosopher and statesman, whose wise words are an important supplement to the foregoing extracts, speaking of officeseekers and officeholders, says ("Chinese Classics," i, 189): "While they have not got their aims, their anxiety is how to get them. When they have got them, their anxiety is lest they should lose them. When they are anxious lest such things should be lost, there is nothing to which they will not proceed."

Confucius's estimate of the value of education as a qualification for officeholding may be inferred from the

* Dr. Martin, who is now (Nov., 1890), lecturing in this country, says: "There are no *surplus victors* in the competition for the third degree, the only one that professes to open to them the doors of office."

William Alexander Parsons Martin, D.D., LL.D., was born in Livonia, Indiana, April 10, 1827; went to Ning-po, China, in 1850, where he was engaged for ten years in missionary labor. From 1863 till 1868 he was a missionary at Peking, and in 1869 became President of the Tong Weng College in that city and Professor of international law. He acted as an adviser of Chinese officials on questions of international law when disputes have arisen with European powers, notably during the conflict with France in 1884–85. In 1885 he was made a Mandarin of the third class. (Appleton's Cyc. of Am. Biography, iv, 234.)

Dr. Martin is the author of a work entitled "The Chinese: their Education, Philosophy, and Letters" (Harpers, 1881), and he will "soon bring out another volume of similar import."

following (p. 208): "The student, having completed his learning, should apply himself to be an officer. The officer, *having discharged all his duties,* should devote his leisure to learning."

A government founded on these principles is sure to stand. It is like a house built on a rock. When it perishes, if a government founded on such imperishable principles can perish, it will be from natural causes. But alas for the Chinese, the same wall that for so many centuries inclosed their learning and wisdom, also excluded the learning and wisdom of other nations!

John W. Draper says ("Intellectual Development of Europe," ii, 397, 398): "A trustworthy account of the present condition of China would be a valuable gift to philosophy, and also to statesmanship. On a former page I have remarked that it demands the highest policy to govern populations living in great differences of latitude. Yet China has not only controlled her climatic strands of people—she has even made them, if not homogeneous, yet so fitted to each other that they all think and labor alike. Europe is inevitably hastening to become what China is. In her we may see what we shall be like when we are old."

In two respects, at least, the United States and China are much alike, namely, in great extent of territory and "great differences of latitude." If we can make our "climatic strands of people think and labor alike," the success of republican government is probably assured.

Montesquieu says ("Spirit of Laws," Am. Ed., i, 255, 263, 270): "If it be true that the temper of the mind and the passions of the heart are extremely different in different climates, the laws ought to be relative both to the variety of those passions and to the variety of those tempers.—The law which forbade the Carthaginians to drink wine, was a law of the climate. Such a law would be improper for cold countries, where the climate seems to force them to a kind of national intemperance very different from personal ebriety.—Happy climate which gives birth to innocence and produces a lenity in the law."

APPENDIX.

NOTE.—The following articles were written for the *Albany Evening Journal* by the author of this work, but only two of the five were published by it. The matter has been retouched, and a few notes have been added.

FIRST ARTICLE.

To the Albany Evening Journal: A writer in your paper of the 12th instant (Nov., 1889), objects to the civil service law because it is an experiment. The objection is not valid, because all laws are experiments. Sir George Cornwell Lewis truly says. (See note, page 25.) The writer also says, and repeats the assertion (in substance) five times in the course of his article, that the certification of three names to an appointing officer is "practically to *dictate appointments.*" Again he is mistaken, for an appointing officer may, if he deems it for the good of the service, object in writing to appointing any or all of the three. (See Fifth An. Rept. U. S. C. S. Com., p. 60.) The law, in fact, is flexible. It does not say that the President shall or must do thus and so, but that he "is authorized" to do thus and so. In fact, in case of an emergency—of war, for example—if he deemed it for the public good, he could temporarily suspend the operation of the entire civil service law system, just as, under similar circum-

stances, the writ of *habeas corpus* (the guardian of our liberties), may be constitutionally suspended. The writer is again mistaken when he says: "No party in convention ever proclaimed what *the character* of the desired reform should be." (See note, p. 94.)

The question of official removals, about which the writer speaks, is of great importance. The power of removal is just as necessary in public business as it is in private business, for it is essential to discipline. But it is often abused. A remedy for its abuse is one of the errors of omission of the civil service law. (See p. 114.)

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NOTE.—One of the headings to the above article was as follows: "A Plank from such Eminent Authority as a Democratic Platform." The following planks are taken from such eminent authority as Republican platforms:

1872. "Any system of the civil service under which the subordinate positions of the government are considered rewards for mere party zeal is fatally demoralizing, and we therefore favor a reform of the system by laws which shall abolish the evils of patronage, and make honesty, efficiency, and fidelity the essential qualifications for public position, without practically creating a life tenure of office."

1876. The gist of it was that "Senators and Representatives * * * should not dictate appointments to office," and that minor offices should "be filled by persons selected with sole reference to efficiency of the public service."

1880. * * * "Fitness, ascertained by proper practical tests, shall admit to the public service; * * * that the tenure shall be during good behavior, with power of removal for cause."

1884. "The reform of the civil service, auspiciously begun under Republican administration, should be completed by the further extension of the reformed system, already established by law, to all the grades of the service to which it is applicable. The spirit and purpose of the reform should be observed in all executive appointments, and all laws at variance with the object of existing reformed legislation should be repealed, to the end that the dangers to free institutions which lurk in the power of official patronage may be wisely and effectively avoided."

1888. After speaking of "the men who abandoned the Republican

party in 1884," it says: "We will not fail to keep our pledges because they have broken theirs, or because their candidate has broken his. We therefore repeat our declaration of 1884" (as above).

The only notable civil service reform utterance in a national Democratic platform, except that of 1876 (printed on page 94), is that of 1872, as follows: "The civil service of the government has become a mere instrument of partisan tyranny and personal ambition, and an object of selfish greed. It is a scandal and reproach upon free institutions, and breeds a demoralization dangerous to the perpetuity of republican government," &c.

SECOND ARTICLE.

To the Albany Evening Journal: Mr. Ham begins his second article by saying that competitive examinations have "been on trial in England since 1871, with indifferent and unsatisfactory results." They have been on trial since May 21, 1855, and have so purified the civil service of that country that the old act of 1782, which disfranchised 40,000 excise, customs, and postoffice officials for corruption at elections, was repealed in 1858. Mr. Ham also says that public opinion in England "has veered around and is now opposing it" (the competitive system). The aristocracy of England have always been more or less opposed to the system. (See p. 69.)

As to the "commission" which Mr. Ham says "has been sitting there for over two years," seeking remedies for defects, I have addressed a letter of inquiry to the British Civil Service Commission, the answer to which I will, if permitted, publish in the *Journal.* *

* In a letter of Dec. 19, 1889, the Secretary of the British Civil Service Commission says: "I inclose for your perusal a copy of the Treasury Minute of August last, on the recommendations of the Royal Commission of Civil Establishments (called from its Chairman the Ridley Commission). This Commission was appointed to inquire how far the scheme of Civil Service Organization recommended by the Playfair

In the same paragraph Mr. Ham says, in effect, that civil service reformers oppose the discussion of civil

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Commission some thirteen years ago had been tried, and whether any modifications of this scheme were needed. The main principle of the Playfair Scheme was the division of the service into two grades of clerkships, recruited by two different open competitive examinations, the regulations regarding which I inclose; and this arrangement is fully accepted and approved for the future. The compititive examinations held under these regulations have, however, for a time been discontinued, pending the substitution of Lower Division for Higher Division clerks, and the extension of the hours of work in the Lower (or Second) Division. These examinations will, however, be resumed as soon as the reorganization of the service is complete.

"The regulations, which I also inclose for your perusal, regarding examinations for female clerks, boy clerks, and telegraph learners, as well as those for higher appointments abroad (in India, Ceylon), and for some technical appointments, will show you that the general principle of selection by open competition is fully maintained."

The Royal Commission, in the course of the Treasury Minute, says: "The reform of the civil service * * * will in no great number of years attain, or nearly attain, the object at which the Playfair and Ridley Commissions have aimed. * * * Changes should be carried out gradually, and with the minimum of disturbance. It cannot be doubted that constant reorganization is prejudicial to discipline and to that confidence in easy and steady administration which is essential to the efficiency of the civil service."

A. J. Mundella, M. P., says: "The postal service was the first to be rescued from the influence of politics. * * * The postal department is as well served as any private firm in Great Britain—I believe I should be justified in saying better served. It is the one department of which all Englishmen are proud. It is unequaled for punctuality, civility, and dispatch. It has been able to go on steadily with reductions and reforms. * * *

"The competitive system was adopted as the test of fitness for official employment; and I stand before you the representative of one of the largest constituencies in England, without the power to influence in the smallest degree the appointment of a custom house officer or an exciseman. I rejoice in this for several reasons, personal and public. Personally, I say no representative can be strictly independent who touts after the Executive for appointments. No man

service reform principles. He is mistaken. They are discussing them in the press (religious and secular), in the pulpit, in circulars, pamphlets, &c. In fact, they invite discussion. This is well, for a system that will not bear discussion is not worthy of trial even.

Mr. Ham, speaking in his first article of appointments, says: "The commission has fixed a very narrow limit within which the appointing power *must* confine its choice." By a "very narrow limit" he either means the eligible list or the still narrower limit, the three highest competitors. In his second article he says: "The appointing power is not bound by the eligible list." Again, in his first article he

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can efficiently serve his constituents and his country whose time is occupied and mind harassed by hunting after and dispensing patronage. He knows that for every office he bestows he is pretty sure to make ninety-nine enemies and one ingrate. The public reasons are still more potent. The prizes of the State are open to all classes, without distinction of rank or social position. The child of the poor man with brains has the same chance as the son of a peer. The effect of the system upon the education of the people must be beneficial in the highest degree. When it is once seen that the son of the artisan may snatch the prize from his noble competitors, parents will be more willing to make sacrifices for the education of their children. Not only will the winners be rewarded, but even the unsuccessful will be gainers in intelligence and intellectual force. The nation will gain every way. It will secure honest and competent servants, whose tenure of office and promotion will be solely dependent upon meritorious service; and when representatives are chosen, not for what they can get or can give, but for their knowledge of political science and their power and disposition to service the fatherland, a higher tone may be expected to pervade the circle of politics."

James Bryce, M. P., who takes the same view of civil service reform as Mr. Mundella, and who is an equally good representative of English public opinion, speaking of civil service reform in this country, says ("American Commonwealth," ii, 476): "They (the Americans) are laboriously striving to bring their civil service up to the German or English level."

says: "President Harrison goes on making removals without fear, * * * and he listens, as men have of yore, to the voice of the politician before he acts." In his second article he says President Harrison is doing his "best to sustain it (the law), as Gen. Grant did the law of 1871." Comment is unnecessary.

Mr. Ham says: "In the rank and file where the competitive scheme would have a chance to operate, there was efficiency and little or no corruption; and the people were deceived by the venders of this elixir which was offered as a panacea."

It is true that the government has been blessed with many efficient and faithful subordinate employés. But it has also been cursed by many corrupt employés, both chief and subordinate. The following narratives almost surpass belief. The United States Civil Service Commissioners say (Fourth Report, p. 123):

"Senator Hoar, in his speech on the Belknap impeachment trial, forcefully stated the condition of the public mind at that time when he said: 'I have heard in highest places the shameless doctrine, avowed by men grown old in office, that the true way by which power should be gained in this republic is to bribe the people with the offices created for their service, and the true end for which it should be used when gained is the promotion of selfish ambition and the gratification of personal revenge.'"

Again the Commissioners say (same Rept., p. 121):

"Before the enactment of the civil service act the condition of the executive civil service in the departments at Washington and in the customs and postal services was deplorable. In the Department of the Treasury 3,400 persons were at one time employed, less than 1,600 of them under authority of law. Of these 3,400 employés, 1,700 were put on and off the rolls at the pleasure of the Secretary, who paid them out of funds that had not by law been appropriated for the payment of such employés. At that time, of a force of 958 persons employed in the Bureau of Engraving and Printing, 539, with annual salaries amounting to $390,000, were, upon an investigation of that bureau, found to be superfluous. For years the force in some

branches of that bureau had been twice and even three times as great as the work required. In one division there was a sort of platform, built underneath the iron roof, about seven feet above the floor, to accommodate superfluous employés. In another division 20 messengers were employed to do the work of one. The Committee that made this investigation reported that 'patronage,' what is known as the 'spoils system,' was responsible for this condition, and declared that this system had cost the people millions of dollars in that branch of the service alone. So great was the importunity for place under the old system of appointments, that when $1,600 and $1,800 places became vacant, the salaries thereof would be allowed to lapse—to accumulate—so that these accumulations might be divided among the applicants for place on whose behalf patronage-mongers were incessant in importunity. In place of one $1,800 clerk, three would be employed at $600 each—would be employed, according to the peculiarly expressive language of the patronage-purveyors, 'on the lapse.' 'In one case,' said a person of reliability and of accurate information, testifying before the Senate Committee on Civil Service Reform and Retrenchment, '35 persons were put on the "lapse fund" of the Treasurer's office for eight days at the end of a fiscal year to sop up some money which was in danger of being saved and returned to the treasury.' Unnecessary employés abounded in every department, in every customs office, and in almost every postoffice. Dismissals were made for no other purpose than to supply with places the protégés of importunate solicitors for spoils."

In the face of such testimony, and much more to the same effect, how can Mr. Ham say that "the people were deceived?"

Mr. Ham says "that one of the main incentives which induced public men to give the 'competitive' theory support was a desire to rid themselves of the 'importunity' of small officeseekers. * * * But it is a serious question whether a public servant, under our institutions, has a right to pass a law simply to elude the demands of his constituents, who have as perfect a right to seek place or preferment at his hands as they have to cast the ballot that aids to elevate the Senator or Representative to public station."

In view of the above facts (facts printed on pages 58, 59, 60 of this work), is it strange that Congressmen should "desire to rid themselves of the importunity of small officeseekers?" A man's "right to seek place or preferment" cannot be denied; but he has no right to obstruct the business of Congress or to annoy Congressmen. That is carrying the democratic principle a little too far. As to a man's abstract right to office Daniel Webster says. (See p. 36.) The abstract right of Congress to prevent its business from being obstructed certainly cannot be denied.

Under the heading, "The First Agitation," Mr. Ham claims that Mr. Jenckes began the civil service agitation in 1866, when, as he says, "the nation had just successfully emerged from a struggle for existence," and when, owing to the demoralization caused by that struggle, "the people were in ripe condition to reform abuses." As a matter of fact Senator Sumner framed the first competitive examination bill in 1864, when the nation was in the very throes of war.

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THIRD ARTICLE.

To the Albany Evening Journal: In his third article Mr. Ham charges that Mr. Jenckes "was certainly guilty of plagiarism from Benton and Calhoun's reports on civil service reform, made in 1826 and 1835." As the object of Messrs. Benton and Calhoun and their colleagues was to *diminish* the President's power, while Mr. Jenckes's object was to *increase* his power, the charge of plagiarism is not well taken. Even if the respective objects were the same, there would be nothing wrong or unusual about the matter, for it is a common thing for statesmen of one generation to

copy those of another—to drink of the wisdom of the past, as it were. (See note, p. 100.) Mr. Benton once said: "The very men who advocate the spoils system for public business, would call a man a fool if he proposed the same system for private business." Would any one think of charging Mr. Benton with plagiarism because he gave force and form to a self-evident truth, a truth that is probably as old as government itself? There are some things in political science as well as literature that are held in common. New ideas, like discoveries, are rare. We should not forget that history repeats itself.

Mr. Ham is either very careless or very reckless, for he charges Messrs. Benton and Calhoun and all their equally earnest colleagues, and all subsequent civil service reformers, with insincerity! He says: "The truth is that neither in 1826, nor in 1835, nor yet in 1866, much less in 1871 and 1882, when civil service reform found its way on the statute book, was there any real or sincerely apprehended danger from 'patronage.'" Shades of the Revolution, of 1812, of '61, of every struggle for honesty in and improvement of government, did ye ever dream that an American *could* charge ye with insincerity! To mention one individual, Mr. Ham charges that unsurpassed hero of the Revolution, Nathaniel Macon, who declined a commission and served as a private soldier, and who subsequently served in Congress from 1791 till 1828, with insincerity! Would Mr. Ham charge Phillips, the Lovejoys, Garrison, Giddings, Smith, Johnson, Brown, Birney, and the noble band of equally earnest Abolitionists who aided them, with insincerity? What does Mr. Ham think of the civil service reform declarations of the national Republican platforms for the past sixteen years—1872 to 1888? (See p. 196.)

Mr. Ham says, among other things, that the civil service reformers of 1870, '71, &c., spread "the most alarming statements * * * concerning the condition of the civil service;" that "it was alleged to be corrupt," and that "bells were tolled to warn the people against danger from the 'officeholders' and General Grant." After reading the extracts from the "Fourth Report of the United States Civil Service Commission," printed in my second article (p. 200), the reader will see that there was reason for the charge of corruption against *some* officeholders at least. As to "General Grant," he can speak best for himself. [An extract from his second annual message (1870) appears on page 94 of this work.] In his third annual message he further says: "If bad men have secured places, it has been the fault of the system. * * * A civil service reform which can correct this abuse is much desired." Fourth annual message: "An earnest desire has been felt to correct abuses which are growing up in the civil service of the country through the defective method of making appointments to office." In his fifth annual message he suggests "that a special committee of Congress might confer with the Civil Service Board * * * for the purpose of devising such rules as * * * will secure the services of honest and capable officials, and which will also protect them in a degree of independence while in office." Sixth annual message: "The effect (of the rules), I believe, has been beneficial on the whole, and has tended to the elevation of the service." He adds to this last message that "it will be a source of mortification if it (civil service reform labor) is to be thrown away." In the face of all this, what reason had civil service reformers "to warn the people against danger from * * * General Grant?"

Could any of them have served the cause better under the circumstances? How can Mr. Ham insult the intelligence of the American people by making such a charge? He might as well tell us that General Grant's *soldiers* warned the people against him.

Under the head of "Jackson as a Horrible Example," Mr. Ham says: "Their (civil service reformers') denunciations of Jackson as a 'partisan' were more properly applicable to Mr. Jefferson, who removed Federalists because they were Federalists." The charge is simply reckless, and is best refuted by Mr. Jefferson himself. Writing on February 14, 1801, he says (Jefferson's Works, iv, 353): "No man who has conducted himself according to his duties would have anything to fear from me, as those who have done ill would have nothing to hope, be their political principles what they might. The obtaining of an appointment presents more difficulties. The Republicans have been excluded from all offices from the first origin of the division into Republican and Federalist. They have a reasonable claim to vacancies till they occupy their due share."* Again, March 29, 1801 (p. 391): "Officers who have been guilty of gross abuses of office, such as marshals packing juries, &c., I shall now remove, as my predecessor ought in justice to have done. The instances will be few, and governed by strict rule, and not party passion. The right of opinion will suffer no invasion from me." And again, October 25, 1802 (p. 451): "I still think our original idea as to office is best; that is, to depend, for the

*Compare with page 73. The officials who were nominated by Adams and confirmed by the Senate on the night of March 3, 1801, ought not to be charged to Mr. Jefferson's removals account. He said they were "considered as nullities," and that Mr. Adams's best friends agreed that they ought to be treated as such.

obtaining a just participation, on deaths, resignations, and delinquencies."

Speaking of Jefferson, Mr. Ham further says: "It would not do for the average civil service reformer to hold him up as a 'partisan.'" In the face of his preaching above and his practice while President, how *could* they "hold him up as a partisan," in the ordinary acceptation of the term? But Mr. Ham does so. Hands off the first six Presidents, Mr. Ham, if you please. The man who says they removed subordinate officeholders for partisan reasons, slanders them. All of them denounced this doctrine. (See p. 91.) In the words of President Hayes, let us return to the principles and practices of the founders of the government. Born of passion, if not revenge, the infamous system of removal for partisan reasons was not engrafted on our national government till 1829. (See p. 74.)

Speaking of Senator Marcy's celebrated spoils doctrine speech, Mr. Ham perpetrates the following extraordinary if not unparalleled jumble of words:

"Mr. Marcy's familiar remark—which the advocates of civil service reform so delight to recall from its slumbers—viz., that 'to the victors belong the spoils,' contained a very essential appendage, which is always suppressed. Mr. Wright (*sic*) added, 'but I do not mean to say that the victors *should plunder their own camp.*' A very important qualification indeed; one that carries a complete refutation of the construction placed in his (*sic*) original remark by the civil service people!"

Does Mr. Ham imagine he can befog the reader with such hodgepodge as the foregoing! How can *Mr. Wright's* words be an "essential appendage" to or "a very important qualification" of *Mr. Marcy's* words? Mr. Wright could not have "added" anything at the time,* for he was not a member of the

* Mr. Wright succeeded Mr. Marcy, taking his seat January 14, 1833. Charles E. Dudley was Mr. Marcy's New York colleague.

Senate at the time. But even if Senator Marcy had used the words himself, which he did not, would they qualify the spoils principle laid down by him in the least? In quoting from a speaker, how can unuttered words be "suppressed?" Mr. Marcy's "familiar remark" is quoted on page 81 of my "Civil Service Law." If Mr. Ham can find anything "essential" to the main question "suppressed," he can do more than I can, and I have read all three of Senator Marcy's speeches on this occasion (the debate on the confirmation of Martin Van Buren as Minister to England.) Mr. Ham's serious charge against "the civil service people" is so mixed, absurd, and contradictory as to be actually comical.

Mr. Ham speaks of "the construction placed in his original remark," &c. Of course a *bad* construction can be placed on a remark of Mr. Marcy or anybody else; but how can a *good* construction be placed on the word spoils? Webster defines the word (the noun) thus: "That which is taken from others by violence; especially the plunder taken from an enemy; pillage; booty; that which is gained by strength or effort; act or practice of plundering; robbery; corruption; cause of corruption."

> The man who hath not music in himself,
> Nor is not moved with concord of sweet sounds,
> Is fit for treasons, stratagems, and spoils.—*Shakespeare.*

As I have said in my "Civil Service Law," if Americans, when talking about public offices, would stop to think of the exact meaning of this word, it would no longer mar our political vocabulary. In the political vocabulary, if not the dictionary, of the Twenty-fifth Century the word will probably be defined thus: A relic of barbarism. *Obs.*

FOURTH ARTICLE.

To the Albany Evening Journal: Mr. Ham begins his fourth article most inauspiciously. He says:

"Following the passage of the civil service law of 1871 came the zealous efforts of the reformers to prepare rules and regulations to make the scheme work out their theories. They failed, and the 'competitive' idea finally collapsed in 1875–6."

A few lines further on and he says:

"There was some difference of opinion, but Congress must have conceived that the law was not worth the powder, or it would not have allowed it to die for want of money to keep it in motion, as that was the method taken to put it to death."

The last statement, which is substantially true, contradicts the first statement. The first statement is not only not true, but it contradicts President Grant's sixth annual message, which says. (See p. 204.)

Again, in his second article, in speaking of "the competitive feature of the civil service law," he says:

"And yet in this country the slightest manifestation of a disposition to reëxamine the matter is denounced, but upon what assumption, no one save so-called civil service reformers can discover."

In his fourth article he says:

"This only seemed to wet (*sic*) the appetite of the reformers, who commenced a systematic siege, and for several years in public print, in conventions, meetings, and on the stump, it was sought to create a sentiment which would justify a second appeal to Congress of sufficient proportions to terrify and bulldoze the legislative branch into passing an elaborate act."

The truth of Mr. Ham's first statement was disputed in my second article, and now he disputes it himself, and therefore contradicts himself. An honest and intelligent discussion of public issues for the purpose of creating "sentiment," means health to the body politic. This is indisputable. How could the

reformers "terrify" or "bulldoze" Congress? The charge is ridiculous.

Speaking of Mr. Eaton and others, Mr. Ham says:

"These aristocratic persons, who go abroad for ideas, and who decline to perform the duties of good citizens, conceive themselves aggrieved because the people neglect to honor them with office."

President Grant, who is almost as high an authority as Mr. Ham, says that Mr. Eaton and the other two Commissioners did *not* "decline to perform the duties of good citizens." In his 1874 message he says:

"The gentlemen who have given their services, without compensation, as members of the Board to devise rules and regulations for the government of the civil service of the country, have shown much zeal and earnestness in their work, and to them, as well as to myself, it will be a source of mortification if it is to be thrown away."

In the sublime "Sermon on the Mount" it is said: "Blessed are they which are persecuted for righteousness' sake: for theirs is the kingdom of heaven." Notwithstanding President Grant's earnest pleadings in five consecutive annual messages, and the fact that he was speaking of business that pertained to the executive (his own) department, and the further fact that he was in almost daily communication with the heads of the departments, and knew their wants, which Congressmen as a rule did not, Congress allowed the law, as Mr. Ham says, "to die for want of money to keep it in motion." Under the circumstances how could such treatment be anything but "a source of mortification" to him?

Speaking of Mr. Eaton's Report on the English civil service, Mr. Ham, among other things, says:

"The suggestion which it conveyed, to wit: that the abuses in England had been eradicated by civil service 'competitive' examinations, rather than by revolutions, was the weakest feature of his historical effort."

As there has not been a political revolution in England since 1688, Mr. Ham is evidently mistaken.

Mr. Ham says "Senators did not concede that there was any corruption or inefficiency in the grades which the law would reach." Let us decide whether this statement is true or not by giving the words not only of 'Senators' but of Representatives also before, during, and after 1871.*

Representative John H. Hubbard of Connecticut, speaking of Mr. Jenckes's civil service bill, says (Cong. Globe, Feb. 6, 1867, pp. 1033–34):

"I regard it as one of the most important bills ever offered here since I first had the honor to take a seat in this Hall. * * * It is a business measure, not a party one. * * * It will furnish a strong incentive to the young to lead honorable and useful lives. A

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*A late (1864) Commissioner of Customs says (House Repts., No. 8, 39th Congress, Second Session, January 31, 1867, vol. i, p. 9): "It is known that men have been appointed as custom house inspectors, at compensations varying from $1.50 to $2.50 and $3 a day, who were never required to perform a single day's service, and whose only attendance at the custom house was for the purpose of receiving and receipting for their pay. Such appointments were made as rewards for past or expected political labors or influence, and were so understood by the appointees, who felt under no obligations, not even a moral one, to render any service to the government whose money their consciences did not forbid them to take."

In this same (the Jenckes Joint Select Committee) Report (p. 1) it is said: "The result of this system, or rather want of system, has been that persons have been received into the service as officers of the government who have had to be educated in the duties which they are to perform after receiving their commissions, and without any probationary course during which their qualifications for the office might be tested. And in cases where there has been manifest inefficiency on the part of the appointee, and where a disposition has been shown to do as little for the public service as was necessary to satisfy the minimum requirements in his office, the political influences which secured the original appointment have been able to prevent a removal."

certificate of good character and efficiency from such a government board, a board appointed by the President of the United States, will help destitute young men to obtain employment in private life, if they fail to get a public office. Thousands upon thousands of poor boys will struggle hard and practice much self-denial to obtain such a prize."

Mr. Hubbard's prophecy has been partly fulfilled.

Representative Robert C. Schenck of Ohio, who also favored Mr. Jenckes's bill, suggested to Representative Woodbridge of Vermont, who somewhat facetiously opposed the bill, that he (Woodbridge) offer an amendment to the bill like this (Cong. Globe, Feb. 6, 1867, p. 1036):

"That the appointments shall be made from such persons as are recommended by a member of Congress from Vermont, or some other State, for services performed in securing by treats of liquor or otherwise the votes of Bill Johnson and Sam Smith for said member at the last preceding election. [Laughter.]"

Mr. Schenck not only completely turned the tables on Mr. Woodbridge, but he described precisely how some votes are secured. He also spoke seriously of the need of civil service reform. He was as prophetic as Mr. Hubbard, for he said the report of the (Jenckes) Committee on the Civil Service, whereof he himself was a member, would be a guide for the action of future Congresses. It was followed by the acts of 1871 and 1883.

Senator Sherman says (Cong. Globe, 1870, p. 3846):

"Every man of sense knows that he can go to any of these departments and cut off one-half of the clerical force, and yet have a sufficient force to perform all the duties. If others do not know it, I at least have a very strong conviction on this point. There is scarcely a department of this government in which, if conducted by a private individual as he would conduct his private business, or the affairs of a private corporation, he would not only reduce the compensation of these employés, but reduce largely the number of the employés. Who does not know that this is so in every one of the executive departments?"

Senator Trumbull, referring to the above, said:

"I think the country should know this, and it comes to us authoritatively. I did not know it. I had no conception that there were twice as many employés in these departments as the public service required. Certainly I should not have voted for any increase of the number of clerks had I known such to be the fact."

Had the noble Senator Morton known these facts, he never would have opposed civil service reform. He made an effort to ascertain the facts by addressing letters of inquiry to several heads of departments, but he failed to get them. The evils, as Mr. Trumbull's confessions prove, were insidious.

A FEW FURTHER FACTS.

In his third article Mr. Ham says that Messrs. Blaine, Wilson, Windom, Allison, and Kasson were "men who took no stock in the idea" (civil service reform), and in his fourth article he says practically the same thing about Senator Dawes. Let these gentlemen speak for themselves.

James G. Blaine says ("Twenty Years of Congress," ii, 648, 651):

"The settled judgment of discreet men in both political parties is adverse to the custom of changing non-political officers on merely political grounds. They believe that it impairs the efficiency of the public service, lowers the standard of political contests, and brings reproach upon the government and the people. * * * No reform in the civil service will be valuable that does not release members of Congress from the care and the embarrassment of appointments; and no boon so great could be conferred upon Senators and Representatives as to relieve them from the worry, the annoyance, and the responsibility which time and habit have fixed upon them in connection with the dispensing of patronage, all of which belongs, under the Constitution, to the Executive. On the other hand, the evil of which President [W. H.] Harrison spoke—the employment of the patronage by the Executive to influence legislation—is far the greatest abuse to which the civil service has ever been perverted."

Senator Wilson says (Cong. Globe, 1871, p. 670):

"Mr. Lincoln said to me one day, in speaking of this terrible (officeseeking) pressure, that it seemed to him that while one end of the house was on fire, instead of putting it out, he was called upon to give men little offices, and that if we put down the rebellion, he did not know that the country could live ten or twenty years longer unless the present system was broken up. Sir, everybody in office and out of office admits these abuses."*

Senator Windom says (Cong. Record, 1882, p. 365):

"I am in favor of the bill substantially as reported from the committee, and I much prefer to have a vote upon it to making a speech. * * * There ought to be an improvement in the mode of making appointments, and I am for this bill because I think it will improve it."

Mr. Windom's belief in the utility of the civil service law has been confirmed by experience. He says (Report of Secretary of Treasury, 1889, p. cvi):

"The beneficial influences of the civil service law, in its practical workings, are clearly apparent. Having been at the head of the department both before and after its adoption, I am able to judge by comparison of the two systems, and have no hesitation in pronouncing the present condition of affairs as preferable in all respects. Under the old plan appointments were usually made to please some one under political or other obligations to the appointee, and the question of fitness was not always the controlling one. The temptation to make removals, only to provide places for others, was always present, and constantly being urged by strong influences; and this restless and feverish condition of departmental life did much to distract and disturb the even current of routine work. Under instrumentali-

* Speaking of Col. S. S. Fisher (whose services are mentioned on page 36 of this work), Mr. Wilson said: "I believe he has never been surpassed by any officer that has been in that office (the Patent Office) during my time." Senator Morrill of Vermont said: "That is my opinion."

It is related of Col. Fisher that in giving verbal orders for an examination for promotion in the Patent Office he said: "Peg it to them. It is not as if they were a set of poor devils who would lose their places if they didn't pass."

ties which are now used to secure selections for clerical places, the department has some assurance of mental capacity, and also of moral worth, as the character of the candidates is ascertained before examination. * * * The clerks received from the Civil Service Commission usually adapt themselves readily to the duties they are called upon to perform, and rank among the most efficient in the department."

Senator William B. Allison not only favored civil service reform, but he wanted to make the enforcement of the civil service law binding on the President instead of optional. (See Congressional Record, Dec. 23, 1882, p. 603.)

Representative John A. Kasson, who introduced the Pendleton-Eaton bill in the House (January 4, 1883), where it was passed by a vote of 155 to 47 (87 not voting), says (Cong. Record, 1883, p. 866):

"It is not here and now, as with some men, that I for the first time lift my voice in favor of this reform. I did so before the last election and upon the stump in the State of Iowa."

Senator Henry L. Dawes, in the course of a masterly speech, says (Cong. Record, 1882, p. 1082):

"Mr. President, the general public anxiety for an improvement in the methods of appointments to office is a healthy sign. That there is diversity of opinion as to the best mode of securing it, is no cause for discouragement. The more urgent and constant this anxiety for a better way shall become, the more surely will that diversity of plans which now troubles us disappear." (See note, p. 60.)

In 1870 Mr. Dawes, though in favor of the reform, thought the movement somewhat in advance of public sentiment. (See Cong. Record for Jan. 24, 1882.)

SIX OTHER CONCESSIONS OF CORRUPTION.

Here are six other Congressmen who were brave enough to call a spade a spade.

Senator Trumbull says (Cong. Globe, 1871, p. 666):

"The great objection to the mode in which persons are appointed to office is that it reaches out among the people; that it demoralizes

the people; that it is corrupting in its influence, and is calculated to bring improper influences to bear in the congressional districts and in the States. Representatives get postmasters and revenue officers and others appointed, who become mere instruments to electioneer for them. It is just as corrupting as if money was offered. So in regard to more general offices, where Senators use their influence to have men appointed to this office or that office."

Senator George B. Vest of Missouri says (Cong. Record, Dec. 20, 1882, p. 461):

"That very great evils exist there can be no sort of question, evils so monstrous, so deadly in their effects that men of all political parties have come to the conclusion that some remedy must be applied."

Representative Edw. Y. Rice of Illinois says (Cong. Globe, 1872, pp. 3071–72):

"The history of our civil service is the history of incompetency, unfaithfulness, and corruption, notwithstanding there are many honorable exceptions. * * * It is estimated that one-fourth of the revenues are lost to the government in consequence of the vicious and unsatisfactory condition of the civil service of the country, involving an annual loss to the treasury of a sum greater than was required to support the government prior to 1860. * * * The same influence that secures position in the public service is employed to retain in place those who are known to be unfaithful, and to conceal their frauds, and to protect from removal and merited punishment men who bring the service into disrepute."

Representative James R. McCormick of Missouri says (Cong. Globe, 1872, p. 1748):

"The present condition of the civil service of the United States, Mr. Speaker, calls so loudly for reform that its consideration rises above party. The evils which afflict it result mainly from a disregard of principles found in the Constitution, and from a widespread avarice now pervading almost every condition of society in this country."

Comparing the policy of the six first Presidents with that in vogue in 1872, Mr. McCormick said:

"Faithful and efficient men were appointed to office without regard to their political views. * * * Now the first great prerequisite for office is fidelity to party."

Representative William S. Holman of Indiana says (Appendix to Cong. Globe, 1872, p. 334):

"We cannot ignore the imperative necessity for reform; we cannot shut our eyes to the painful fact that venality riots in every department of the government. * * * A republic cannot long exist unless there is purity and honesty in the conduct of its affairs. * * * We have reached a period in our history when * * * men (should) be appointed to office because they are competent and honest, and not for mere partisan services."

Representative Albert S. Willis of Kentucky says (Cong. Record, 1882, pp. 5809, 5816):

"Both (bills) are aimed at our false, inefficient, and unrepublican system of civil service, that fountain head from which flows nearly every stream of political corruption in our land. The complete overthrow of that system is, sir, in my judgment, the great demand of the hour. * * * In every forum of opinion our civil service has been denounced as a national disgrace and a national danger. Let us make merit the sole test of official appointment and promotion."

Mr. Ham is certainly mistaken when he says that "Senators did not concede that there was any corruption or inefficiency in the grades which the law would reach." Sixteen statesmen are against him.

FIFTH ARTICLE.

To the Albany Evening Journal: Mr. Ham begins his fifth article thus:

"The resort to Mr. Pendleton was about as astute a political conception by men supposed to be above the 'dirty pool of politics' as the average patronage politician would have thought of."

In a letter of September 20, 1887, Mr. Eaton says:

"I placed the act in Senator Pendleton's hands, who had never before seen it, and he presented it precisely as handed to him in the Senate, waiving and abandoning a previous and utterly unlike bill which he had before presented, I being glad to have my relation ignored if only a Senator would have the patriotic courage to present the bill."

In other words, Mr. Eaton merely gave his bill to Mr. Pendleton for examination, and Mr. Pendleton compared it with and preferred it to his own bill. Mr. Eaton trusted his bill to Mr. Pendleton because he knew he had "the patriotic courage" to present it, but he did not know till he tried him that he also had the magnanimity to present it instead of his own. Did any Senator, except Mr. Pendleton, forfeit his seat in the Senate because of his advocacy of civil service reform principles? There may have been abler men in the Senate than Mr. Pendleton, but none was braver or purer. He did that which some statesmen fail to do—he rose above party. It is noteworthy that Mr. Pendleton, in order to lighten the burdens of officeseeking, proposed a constitutional amendment making postmasterships elective instead of appointive offices. This was also prior to introducing the Eaton bill. "Dirty pool of politics." Bah!

Mr. Ham quotes the words of "a leading (newspaper) correspondent," who, writing nearly six months after the inauguration of President Harrison, says:

"Cabinet officers have been compelled to close their doors and see callers only by card, because the crowds of place-hunters left them no time to attend to public business."

This is bad, but it is nothing new. (See p. 82.) President Harrison has no one to blame for this deplorable state of affairs but himself. He and he only could have prevented it by simply obeying the mandate of his party platforms. The civil service planks of the Republican platforms of 1884 and 1888 say: "The *spirit* and *purpose* of the reform should be observed in *all* executive appointments." President Harrison has not only disobeyed this mandate himself, but he has permitted others to disobey it. Common honesty as well as consistency required that no re-

movals should be made except for cause.* "That the tenure shall be during good behavior, with power of removal for cause," says the Republican platform of 1880. That Washington should be inundated, as it were, with officeseekers is not the fault of the civil service law, for the law can neither enforce itself nor increase its own scope. But the President can.

The correspondent quoted above further says:

"Republican Congressmen, who ordinarily would have gone away for the summer long ago, are still kept here by the importunities of their officeseeking constituents," &c.

The correspondent's words, in full, have been printed in many civil service reform periodicals. Mr. Ham gets on the wrong side of the question when *he* prints them, of course. But it is not his first "offense" in this line. Therefore he has some excuse for the following words in his seventh article: "From the line of defense * * * we enter upon a line of attack."

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* In his letter of acceptance Mr. Harrison said: "In appointments to every grade and department fitness and not party service should be the essential and discriminating test, and fidelity and efficiency the only sure tenure of office. Only the interest of the public service should suggest removals from office." If this is not preaching one thing and practicing another, what is?

In 1886, speaking of and condemning Mr. Cleveland's *postoffice* removals, Mr. Harrison, among other things, said (Cong. Record, 1886, p. 2795): "I do lift up a hearty prayer that we may never have a President who will not either pursue and compel his Cabinet advisers to pursue the civil service policy pure and simple, and upon a just basis, allowing men accused to be heard, and deciding against them only upon competent proof and fairly; either have that kind of a civil service, or, for God's sake, let us have that other frank and bold, if brutal, method of turning men and women out simply for political opinion. Let us have one or the other." He also spoke of "this wretched condition of things in which men and women are condemned without a hearing." What has Mr. Harrison to say of his own postoffice removals? What hearing has he given removed postmasters?

So Mr. Ham is on all sides of the question—even the comical side.

Mr. Ham says:

"This may not be a nation of liars, but it is fast drifting toward a nation of hypocrites, and the inevitable tendency of the 'competitive' idea is to hasten that result."

So far as "the 'competitive' idea" (the civil service law) is concerned, the only "hypocrites" are those who pretend to favor it before election and oppose its execution after election. This hypocrisy is not caused or even promoted by "the 'competitive' idea," *but by the greed for spoils,* as every thinking and fair-minded man can testify, Mr. Ham to the contrary notwithstanding. Mr. Ham, the words quoted above will make every true American blush. And yet you, and others as honorable as you presumably are, defend the system that makes their use permissible! "A nation of hypocrites!" When these words can be truthfully applied to the American people, it will be the beginning of the end of the American republic.*

Again Mr. Ham says: "The act of 1820, fixing tenure at four years, was repealed a few years later, because it was alleged to aggravate an evil." He is mistaken. The law is still in force, notwithstanding civil service reformers have urged its repeal for over sixty years, and, further, that the Republican platforms of 1884 and 1888 say that "all laws at variance with the object of existing reformed legislation should be repealed." (See note, p. 160.) The act of 1820 is in conflict as well as "at variance" with the civil service law.

* It is noteworthy that at a recent meeting of a faction of the Republican party of Albany, New York, under the lead of the *Evening Journal*, resolutions were passed favoring the repeal of both the New York State and the national civil service laws.

So much for Mr. Ham's fifth article.

In his second article he says: "Hundreds signed papers and petitions in favor of * * * civil service reform." In his fourth article he says: "Soon petitions began to pour into Congress." In his third article he says: "No volume of genuine public sentiment ever stood behind the 'competitive' scheme." The last quotation not only contradicts the two first, but it is self-contradictory, for the civil service law could not even have been passed, much less enforced, if "public sentiment" had not been "behind" it. Hundreds of petitions, signed in the aggregate by thousands of men, did "pour into Congress," as any one will find by examining the records of Congress from 1869 till 1882.*

Again, in his second article Mr. Ham says: "That evils existed was well known." In his sixth article he says: "There was no corruption nor inefficiency in the grades which that scheme (the civil service law) was really designed to reach." Again he is mistaken, if he does not actually contradict himself, for "that scheme" was "designed to reach," sooner or later, corruption and inefficiency in all the public office "grades." The assertion in his third article that

* James Bryce, M. P., a disinterested and very close observer, says ("American Commonwealth," i, 658): "Civil service reform has for some time past received the lip service of both parties, a lip service expressed by both with equal warmth, and by the average professional politicians of both with equal insincerity. Such reforms as have been effected in the mode of filling up places, have been forced on the parties by *public opinion*, rather than carried through by either. None of the changes made—and they are perhaps the *most beneficial of recent changes*—has raised an issue between the parties, or given either of them a claim on the confidence of the country. The best men in both parties support the Civil Service Commission; the worst men in both would gladly get rid of it."

Mr. Schurz introduced Mr. Jenckes's bill in the Senate is another mistake. (See p. 8.) The words (in the same article), "perhaps make Carl Schurz President," imply that that gentleman is eligible to the presidency. This is still another mistake, for Mr. Schurz is foreign born.

When contradictions and misstatements become monotonous, it is time to stop, for they tire the reader as well as the writer. So Mr. Ham's six other articles must go unanswered. The salient points of the five first articles only have been noticed.

With Mr. Ham civil service competition is a bugaboo. It is the burden of his song throughout his whole series of articles. He does not appreciate its utility, however much he may appreciate the utility of competition generally.

The competitive theory, as I understand it, is in harmony with that great fundamental principle of republican government, namely, that every educated and self-respecting citizen is the equal of any other citizen, no matter where he comes from, what his color, what his politics, what his religion, or what his financial standing. In fact, competition seems to be indispensable to human government. To be stable, a government must avail itself of the services of its most competent men, civil and military, and in no way can they be better tested, theoretically or practically, than by competition; and the more systematic and thorough the plan of competition the better.

Life is a series of competitions. Youth competes with youth, man with man, firm with firm, corporation with corporation, city with city, State with State, nation with nation. When man competes with man, one teaches and expands the mind of the other. Competition prevents indolence, stagnation, monopoly, ex-

tortion, &c., &c., and in civil service examinations it prevents, or tends to prevent, favoritism; it leads to improvement; in fact, there could be little progress without it. Of course it can be abused.*

Competition for office under the patronage system is the same in principle as under the merit system, but it is very different in practice. The advantage of the merit system plan is that it is governed by carefully drawn rules and regulations, while the patronage system plan is governed by the rule, such as it is, of "every fellow for himself," &c.

The late Senator Morton, speaking of offices and defending the patronage system, said: "There will be competition for them as there always has been. Men

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* Compare with page 33.

John C. Calhoun, in the course of his "Disquisition on Government," says (Works, i, pp. 65, 67): "When something *must* be done, * * * the necessity of the case will force to a compromise. * * * Under its influence * * * the prevailing desire would be to promote the common interests of the whole; and hence the competition would be, not which should yield the least to promote the common good, but which should yield the most."

The most important practical use of the word competition is in the political economy of commerce, where it is the great motive-power of production and enterprise.—The service of government by contract may be made as effective as any other kind of competition.—Employers compete to get work as much as workmen compete for employment.—*Chambers's Encyclopedia.*

Though what produces any degree of pleasure be in itself good, and what is apt to produce any degree of pain be evil, yet often we do not call it so, when it comes in competition.—*Locke.*

Amidst the variety of competition with which the world abounds, it is a difficult matter to guard against pride and self-consequence.—*Gilpin.*

Men have gone on warring, grudging, struggling, competing from the beginning, and they will do so to the end.—*Kingsley.*

Competition and emulation have honor for their basis.—*Worcester.*

The co-operative in lieu of the competitive principle.—*Quart. Review.*

Is trade competition?—*E. B. Browning.*

will come in droves just as they always have done." And here is a life-like picture of how men act when they go to Washington "in droves" to seek office. Messrs. Nicolay and Hay, in their "Abraham Lincoln: a History," describing the officeseeking scenes in Washington in the spring of 1861, say (Century Magazine, March, 1888, p. 718):

"The city was full of strangers; the White House full of applicants from the North. At any hour of the day one might see at the outer door and on the staircase one file going, one file coming. In the ante-room and in the broad corridor adjoining the President's office there was a restless and persistent crowd—10, 20, sometimes 50, varying with the day and hour—each one in pursuit of one of the many crumbs of official patronage. They walked the floor; they talked in groups; they scowled at every arrival and blessed every departure; they wrangled with the door-keepers for right of entrance; they intrigued with them for surreptitious chances; they crowded forward to get even an instant's glance through the half-opened door into the executive chamber; they besieged the Representatives and Senators who had privilege of precedence; they glared with envy and growled with jealousy at the cabinet ministers who, by right and usage, pushed through the throng and walked unquestioned through the doors. At that day the arrangement of the rooms compelled the President to pass through this corridor and the midst of this throng when he went to his meals in the other end of the Executive Mansion; and thus, once or twice a day, the waiting expectants would be rewarded by the chance of speaking a word or handing a paper direct to the President himself—a chance which the more bold and persistent were not slow to improve.

"At first Lincoln bore it all with the admirable fortitude acquired in western political campaigns. But two weeks of this experience on the trip from Springfield to Washington and six weeks more of such beleaguering in the executive office, began to tell on his nerves. What with the Sumter discussion, the rebel negotiation, the diplomatic correspondence, he had become worked into a mental strain and irritation that made him feel like a prisoner behind the executive doors, and the audible and unending tramp of the applicants outside impressed him like an army of jailers."

And here is a picture of the way in which business

is conducted after such men (that is, men who are cursed by this evil system) are appointed to office. A late Auditor of the Treasury, of fifteen years' experience, who needed fifty additional clerks, when asked if he could not suggest some change that would insure greater efficiency and economy, said (Cong. Record, 1882, p. 1084):

"Were I permitted to manage the business of my office as any good business man would manage 250 men under him, I would undertake to produce better results than I now do with 50 less men than I now have; but as at present managed the office must have 50 more. I can have no choice in the selection or retention of the men under me. A power above me puts to work under me whom he pleases, discharges whom he pleases, transfers the most efficient to other duties if he likes, and promotes without consultation with me. I cannot discharge a dunce, or a drone, or a rascal; I cannot promote merit or discharge incompetence. Men come to serve under me commissioned by one who neither knows the character of the men he sends to me nor the work they are to perform."*

Can any sane man fail to see the danger depicted in the two preceding pictures? And yet they reflect the workings of a system that some people call "the American plan." The reader may decide for himself which of the two systems—patronage or merit—is safe and which is unsafe; which is systematic and which is unsystematic; which is business-like and which is unbusiness-like; which is admirable and which is not; which leads to stability of government and which to anarchy; which is American and which un-American.

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* Compare with Senator Sherman's remarks, page 211; also with the extract from the U. S. Civil Service Commission's Report, p. 200.

NOTE.—The late Mr. Windom, Secretary of the Treasury, in his Report for 1890, says: "The past year's experience of the excellent working of the civil service law * * * leads me to emphasize what was said on this subject in my last annual Report. * * * There has been entire and uniform compliance with the requirements of law respecting the collection of money for political purposes." (See p. 213.)

THE ROCKS ON WHICH REPUBLICS HAVE FALLEN.

JOSEPH STOREY, LL.D., says ("Exposition of the Constitution," pp. 247, 267):

"The fate of other republics, their rise, their progress, their decline, and their fall, are written but too legibly on the pages of history, if indeed they were not continually before us in the startling fragments of their ruins. Those republics have perished, and have perished by their own hands. Prosperity has enervated them; corruption has debased them, and a venal populace has consummated their destruction. The people, alternately the prey of military chieftains at home, and of ambitious invaders from abroad, have been sometimes cheated out of their liberties by servile demagogues; sometimes betrayed into a surrender of them by false patriots, and sometimes they have willingly sold them for a price to the despot who has bidden highest for his victims. They have disregarded the warning voice of their best statesmen, and have persecuted and driven from office their truest friends. They have listened to the councils (*sic*) of fawning sycophants, or base calumniators of the wise and the good. They have reverenced power more in its high abuses and summary movements than in its calm and constitutional energy, when it dispensed blessings with an unseen but a liberal hand. They have surrendered to faction what belonged to the common interests and common rights of the country. *Patronage* and *party*, the triumph of an artful popular leader, and the discontents of a day, have outweighed, in their view, all solid principles and institutions of government. Such are the melancholy lessons of the past history of republics down to our own.*

"The besetting sin of republics is a restlessness of temperament, and a spirit of discontent at slight evils."

THE DANGERS OF PARTISANSHIP.

GEORGE WASHINGTON says ("Writings," xii, 224):

"I have already intimated to you the danger of parties in the

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* Switzerland is an exception. The foundation of the Swiss Confederation was laid on August 1, 1291. Compare Judge Storey's remarks with Mr. Holman's on page 216; also with those on page 40.

state, with particular reference to the founding of them on geographical discriminations. Let me now take a more comprehensive view, and warn you in the most solemn manner against the baneful effects of the spirit of party generally.

"This spirit unfortunately is inseparable from our nature, having its root in the strongest passions of the human mind. It exists under different shapes in all governments, more or less stifled, controlled, or repressed; but in those of the popular form it is seen in its greatest rankness, and is truly their worst enemy.

"The alternate domination of one faction over another, sharpened by the spirit of revenge, natural to party dissension, which in different ages and countries has perpetrated the most horrid enormities, is itself a frightful despotism. But this leads at length to a more formal and permanent despotism. The disorders and miseries which result, gradually incline the minds of men to seek security and repose in the absolute power of an individual; and sooner or later the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purposes of his own elevation—on the ruins of Public Liberty.

"Without looking forward to an extremity of this kind (which nevertheless ought not to be entirely out of sight), the common and continual mischiefs of the spirit of party are sufficient to make it the interest and duty of a wise people to discourage and restrain it.

"It serves always to distract the Public Councils and enfeeble the Public Administration. It agitates the Community with ill-founded jealousies and false alarms; kindles the animosity of one part against another; foments occasionally riot and insurrection. It opens the door to foreign influence and corruption, which find a facilitated access to the government itself through the channels of party passions. Thus the policy and the will of one country are subjected to the policy and will of another.

"There is an opinion that parties in free countries are useful checks upon the administration of the government, and serve to keep alive the spirit of Liberty. This, within certain limits, is probably true; and in governments of a Monarchical cast, Patriotism may look with indulgence, if not with favor, upon the spirit of party. But in those of the popular character, in governments purely elective, it is a spirit not to be encouraged. *From their natural tendency, it is certain there will always be enough of that spirit for every salutory purpose.* And, there being constant danger of excess, the effort ought to be, *by force of public opinion*, to mitigate and assuage it." * * *

HENRY C. POTTER, D.D., in the course of his address at the Centennial Commemoration Service of Washington's Inauguration, at St. Paul's Church, New York, April 30, 1889, said:

"The conception of the National Government as a huge machine, existing mainly for the purpose of rewarding partisan service—this was a conception so alien to the character and conduct of Washington and his associates that it seems grotesque even to speak of it. It would be interesting to imagine the first President of the United States confronted with some one who had ventured to approach him upon the basis of what are now commonly known as 'practical politics.' But the conception is impossible. The loathing, the outraged majesty with which he would have bidden such a creature to begone, is foreshadowed by the gentle dignity with which, just before his inauguration, replying to one* who had the strongest claims upon his friendship, and who had applied to him during the progress of the 'presidential campaign,' as we should say, for the promise of an appointment to office, he wrote: 'In touching upon the more delicate part of your letter, the communication of which fills me with real concern, I will deal by you with all that frankness which is due to friendship, and which I wish should be a characteristic feature of my conduct through life. * * * Should it be my inevitable fate to administer the government, * * * I will go to the Chair under no preëngagement of any kind or nature whatsoever. But when in it, I will, to the best of my judgment, discharge the duties of the office with that impartiality and zeal for the public good which ought never to suffer connections of blood or friendship to intermingle so as to have the least sway on decisions of a public nature.' (ix, 476.)

"On this high level moved the first President of the republic. To it must we who are the heirs of her sacred interests be not unwilling to ascend, if we are to guard our glorious heritage!

"The traits which in him shone preëminent, as our own Irving has described them, 'Firmness, sagacity, an immovable justice, courage that never faltered, and, most of all, truth that disdained all artifices'—these are characteristics in her leaders of which the nation was never in more dire need than now. God give us the grace to prize his grand example, and, as we may in our more modest measure, to reproduce his virtues."

* Benj. Harrison, a signer of the Declaration of Independence; great-grandfather of President Benj. Harrison. Letter dated March 9, 1789.

THE CIVIL SERVICE STATUTE.

An Act to regulate and improve the civil service of the United States.

Be it enacted, &c., That the President is authorized to appoint, by and with the advice and consent of the Senate, 3 persons, not more than 2 of whom shall be adherents of the same party, as Civil Service Commissioners, and said 3 commissioners shall constitute the United States Civil Service Commission. Said commissioners shall hold no other official place under the United States. The President may remove any commissioner; and any vacancy in the position of commissioner shall be so filled by the President, by and with the advice and consent of the Senate, as to conform to said conditions for the first selection of commissioners. The commissioners shall each receive a salary of $3,500 a year. And each of said commissioners shall be paid his necessary traveling expenses incurred in the discharge of his duty as a commissioner.

SEC. 2. That it shall be the duty of said commissioners—

1. To aid the President, as he may request, in preparing suitable rules for carrying this act into effect, and when said rules shall have been promulgated, it shall be the duty of all officers of the United States in the departments and offices to which any such rules may relate, to aid in all proper ways in carrying said rules and any modifications thereof into effect.

2. And, among other things, said rules shall provide and declare, as nearly as the conditions of good administration will warrant, as follows: 1. For open competitive examinations for testing the fitness of applicants for the public service now classified or to be classified hereunder. Such examinations shall be practical in their character, and so far as may be shall relate to those matters which will fairly test the relative capacity and fitness of the persons examined to discharge the duties of the service into which they seek to be appointed. 2. That all the offices, places, and employments so arranged or to be arranged in classes, shall be filled by selections, according to grade, from among those graded highest as the results of such competitive examinations. 3. Appointments to the public service aforesaid, in the departments at Washington, shall be apportioned among the several States and Territories and the District of Columbia upon the basis of population as ascertained at the last preceding census. Every application for an examination shall contain, among other things, a statement, under oath, setting forth his or her actual bona fide residence at the time of making the application, as well as how long he or she has been a resident of such place. 4. That there shall be a period of probation before any absolute appointment or employment aforesaid. 5. That no person in the public service is for that reason under any obligations to contribute to any political fund, or

to render any political service, and that he will not be removed or otherwise prejudiced for refusing to do so. 6. That no person in said service has any right to use his official authority or influence to coerce the political action of any person or body. 7. There shall be non-competitive examinations in all proper cases before the commission, when competent persons do not compete, after notice has been given of the existence of the vacancy, under such rules as may be prescribed by the commissioners as to the manner of giving notice. 8. That notice shall be given in writing by the appointing power to said commission of the persons selected for appointment or employment from among those who have been examined, of the place of residence of such persons, of the rejection of any such persons after probation, of transfers, resignations, and removals, and of the date thereof, and a record of the same shall be kept by said commission. And any necessary exceptions from said 8 fundamental provisions of the rules shall be set forth in connection with such rules, and the reasons therefor shall be stated in the annual reports of the commission.

3. Said commission shall, subject to the rules that may be made by the President, make regulations for, and have control of, such examinations, and, through its members or the examiners, it shall supervise and preserve the records of the same; and said commission shall keep minutes of its own proceedings.

4. Said commission may make investigations concerning the facts, and may report upon all matters touching the enforcement and effects of said rules and regulations, and concerning the action of any examiner or board of examiners hereinafter provided for, and its own subordinates, and those in the public service, in respect to the execution of this act.

5. Said commission shall make an annual report to the President for transmission to Congress, showing its own action, the rules and regulations, and the exceptions thereto, in force, the practical effects thereof, and any suggestions it may approve for the more effectual accomplishment of the purposes of this act.

SEC. 3. That said commission is authorized to employ a chief examiner, a part of whose duty it shall be, under its direction, to act with the examining boards, so far as practicable, whether at Washington or elsewhere, and to secure accuracy, uniformity, and justice in all their proceedings, which shall be at all times open to him. The chief examiner shall be entitled to receive a salary at the rate of $3,000 a year, and he shall be paid his necessary traveling expenses incurred in the discharge of his duty. The commission shall have a secretary, to be appointed by the President, who shall receive a salary of $1,600 per annum. It may, when necessary, employ a stenographer and a messenger, who shall be

paid, when employed, the former at the rate of $1,600 a year, and the latter at the rate of $600 a year. The commission shall, at Washington, and in one or more places in each State and Territory where examinations are to take place, designate and select a suitable number of persons, not less than 3, in the official service of the United States, residing in said State or Territory, after consulting the head of the department or office in which such persons serve, to be members of boards of examiners, and may at any time substitute any other person in said service living in such State or Territory in the place of any one so selected. Such boards of examiners shall be so located as to make it reasonably convenient and inexpensive for applicants to attend before them; and where there are persons to be examined in any State or Territory, examinations shall be held therein at least twice in each year. It shall be the duty of the collector, postmaster, and other officers of the United States, at any place outside of the District of Columbia where examinations are directed by the President or by said board to be held, to allow the reasonable use of the public buildings for holding such examinations, and in all proper ways to facilitate the same.

SEC. 4. That it shall be the duty of the Secretary of the Interior to cause suitable and convenient rooms and accommodations to be assigned or provided, and to be furnished, heated, and lighted, at the City of Washington, for carrying on the work of said commission and said examinations, and to cause the necessary stationery and other articles to be supplied, and the necessary printing to be done for said commission.

SEC. 5. That any said commissioner, examiner, copyist, or messenger, or any person in the public service, who shall willfully and corruptly, by himself or in co-operation with 1 or more other persons, defeat, deceive, or obstruct any person in respect of his or her right of examination according to any such rules or regulations, or who shall willfully, corruptly, and falsely mark, grade, estimate, or report upon the examination or proper standing of any person examined hereunder, or aid in so doing, or who shall willfully and corruptly make any false representations concerning the same, or concerning the person examined, or who shall willfully and corruptly furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person so examined, or to be examined, being appointed, employed, or promoted, shall for each such offense be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than $100, nor more than $1,000, or by imprisonment not less than ten days, nor more than one year, or by both such fine and imprisonment.

SEC. 6. That within 60 days after the passage of this act it shall be the duty of the Secretary of the Treasury, in as near conformity as may

be to the classification of certain clerks now existing under the 163d section of the Revised Statutes, to arrange in classes the several clerks and persons employed by the collector, naval officer, surveyor, and appraisers, or either of them, or being in the public service, at their respective offices in each customs district where the whole number of said clerks and persons shall be all together as many as 50. And thereafter, from time to time, on the direction of the President, said Secretary shall make the like classification or arrangement of clerks and persons so employed, in connection with any said office or offices, in any other customs district. And, upon like request, and for the purposes of this act, said Secretary shall arrange in one or more of said classes, or of existing classes, any other clerks, agents, or persons employed under his department in any said district not now classified; and every such arrangement and classification, upon being made, shall be reported to the President.

2. Within said 60 days it shall be the duty of the Postmaster-General, in general conformity to said 163d section, to separately arrange in classes the several clerks and persons employed, or in the public service, at each postoffice, or under any postmaster of the United States, where the whole number of said clerks and persons shall together amount to as many as 50. And thereafter, from time to time, on the direction of the President, it shall be the duty of the Postmaster-General to arrange in like classes the clerks and persons so employed in the postal service in connection with any other postoffice; and every such arrangement and classification, upon being made, shall be reported to the President.

3. That from time to time said Secretary, the Postmaster-General, and each of the heads of departments mentioned in the 158th section of the Revised Statutes, and each head of an office, shall, on the direction of the President, and for facilitating the execution of this act, respectively revise any then existing classification or arrangement of those in their respective departments and offices, and shall, for the purposes of the examination herein provided for, include in 1 or more of such classes, so far as practicable, subordinate places, clerks, and officers in the public service pertaining to their respective departments not before classified for examination.

SEC. 7. That after the expiration of 6 months from the passage of this act no officer or clerk shall be appointed and no person shall be employed to enter or be promoted in either of the said classes now existing, or that may be arranged hereunder pursuant to said rules, until he has passed an examination, or is shown to be specially exempted from such examination in conformity herewith. But nothing herein contained shall be construed to take from those honorably discharged from the military or naval service any preference conferred by the 1754th section of the Revised Statutes, nor to take from the President any authority, not in-

consistent with this act, conferred by the 1753d section of said statutes; nor shall any officer not in the executive branch of the government, or any person merely employed as a laborer or workman, be required to be classified hereunder; nor, unless by direction of the Senate, shall any person who has been nominated for confirmation by the Senate be required to be classified or to pass an examination.

SEC. 8. That no person habitually using intoxicating beverages to excess shall be appointed to, or retained in, any office, appointment, or employment to which the provisions of this act are applicable.

SEC. 9. That whenever there are already 2 or more members of a family in the public service, in the grades covered by this act, no other member of such family shall be eligible to appointment to any of said grades.

SEC. 10. That no recommendation of any person who shall apply for office or place under the provisions of this act which may be given by any Senator or member of the House of Representatives, except as to the character or residence of the applicant, shall be received or considered by any person concerned in making any examination or appointment under this act.

SEC. 11. That no Senator, or Representative, or territorial Delegate of the Congress, or Senator, Representative, or Delegate elect, or any officer or employé of either of said houses, and no executive, judicial, military, or naval officer of the United States, and no clerk or employé of any department, branch, or bureau of the executive, judicial, or military or naval service of the United States shall, directly or indirectly, solicit or receive, or be in any manner concerned in soliciting or receiving, any assessment, subscription, or contribution for any political purpose whatever, from any officer, clerk, or employé of the United States, or any department, branch, or bureau thereof, or from any person receiving any salary or compensation from moneys derived from the Treasury of the United States.

SEC. 12. That no person shall, in any room or building occupied in the discharge of official duties by any officer or employé of the United States mentioned in this act, or in any navy-yard, fort, or arsenal, solicit in any manner whatever, or receive any contribution of money or any other thing of value for any political purpose whatever.

SEC. 13. No officer or employé of the United States mentioned in this act shall discharge, or promote, or degrade, or in [any] manner change the official rank or compensation of any other officer or employé, or promise or threaten so to do, for giving or withholding or neglecting to make any contribution of money or other valuable thing for any political purpose.

SEC. 14. That no officer, clerk, or other person in the service of the United States shall, directly or indirectly, give or hand over to any other officer, clerk, or person in the service of the United States, or to any Senator or member of the House of Representatives, or territorial Delegate, any money or other valuable thing on account of or to be applied to the promotion of any political object whatever.

SEC. 15. That any person who shall be guilty of violating any provision of the four foregoing sections, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine not exceeding $5,000, or by imprisonment for a term not exceeding 3 years, or by such fine and imprisonment both, in the discretion of the court.

Approved, January 16th, 1883.

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It is a compact, well-filled, interesting, and timely volume, which I hope may have a large circulation. The information it contains and the principles it enforces should be a part of the possessions of every citizen who assumes to be fairly well informed concerning the politics and government of this country. I congratulate you on having rendered a patriotic and useful public service.—*Dorman B. Eaton.*